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Additional Information on the Fiscal Measures

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1. TIGHTENING OF FISCAL MEASURES

1.1 Reduction of certain designated sites

Québec's tax legislation includes a number of measures concerning businesses that carry out scientific research and experimental development (R&D) and other forms of innovation in certain sectors, in particular those associated with the knowledge-based economy. Examples are the measures relating to R&D and those relating to carrying out eligible activities in certain designated sites, i.e. measures relating to information technology development centres (CDTIs), biotechnology development centres (CDBs), the Cité du multimédia, the Centre national des nouvelles technologies de Québec (CNNTQ), and new economy centres (CNEs).

Essentially, the fiscal measures relating to the carrying out of activities in certain designated sites are divided into two types: those relating to the carrying out of an innovative project and those relating to the carrying out of activities other than in the course of carrying out an innovative project (specified activities).

Furthermore, another fiscal measure specifically applicable to a designated site, namely, E-Commerce Place, allows a corporation that carries out certain activities there to receive tax assistance consisting of either a refundable tax credit or a refundable credit of the employer contribution to the Health Services Fund (HSF).

The fiscal measures relating to the carrying out of an innovative project in a designated site enable a corporation that carries out an innovative project in the information and communications technology sector in a CDTI or a CNE, or in the biotechnology sector in a CDB, to receive a five-year tax holiday regarding income tax, the tax on capital and the employer contribution to the HSF. Such a corporation may also receive refundable tax credits for salaries paid to eligible employees as well as for the acquisition or leasing of eligible specialized equipment. Furthermore, a foreign specialist employed by such a corporation and whose duties are almost exclusively attributable to eligible activities, may receive, for five years, an exemption from tax on his income from such employment.

Lastly, a corporation that carries out an innovative project in the biotechnology sector in a CDB may also claim a refundable tax credit regarding eligible rent expenses relating to short-term rental of eligible specialized facilities.

The fiscal measures relating to the carrying out of specified activities in a designated site enable a corporation that carries out such activities in a CNE, a CDTI, the Cité du multimédia or the CNNTQ, to claim a refundable tax credit regarding the salaries paid to specified employees. Furthermore, a foreign specialist employed by such a corporation and whose duties are almost exclusively attributable to specified activities may receive, for five years, an exemption from tax on his income from such employment.

E-Commerce Place, located in downtown Montréal, was created on May 11, 2000. Briefly, eligible corporations that move into E-Commerce Place can receive tax assistance with respect to eligible salaries they incur and pay to eligible employees to carry out eligible activities.

The rate of this tax assistance is generally 35% but may be reduced beginning in the sixth year of operation of an eligible corporation in E-Commerce Place if the eligible corporation has not created a minimum number of jobs in Québec.

Initially, this tax assistance consisted of a refundable tax credit. However, in the Supplement to the Government's Budgetary Policy of March 19, 2002, an election was introduced allowing an eligible corporation to elect to claim either the refundable tax credit or a refundable credit of employer HSF contribution. The election is possible regarding taxation years of an eligible corporation ending after March 19, 2002.

The totality of these designated sites includes a physical limit within which the various activities can be carried out. In most cases, the physical limit is expressed as a maximum floor space, in square metres, that can be designated in a specific location, a building or within a perimeter bounded by streets. However, in the case of the Cité du multimédia, this physical limit is only expressed geographically by a specific group of cadastral designations located in downtown Montréal.

The physical limits applicable to each designated site were initially set on the basis of the needs identified at their implementation. Adjustments were made according to the results obtained. For many fiscal measures, the maximum authorized floor space was increased to meet the requests of the corporations wishing to move into these designated sites and thus receive tax assistance. An example is the CNEs, whose maximum authorized floor space gradually rose from 45 000 square metres to 150 000 square metres.

A freeze and a reduction in space available for carrying out activities in these designated sites were announced on December 12, 2002.[1]

To reduce the costs associated with the fiscal measures relating to designated sites, reductions will be made to the physical limits of some of these sites.

1 Bulletin d'information 2002-12.

However, it should be specified that in spite of these reductions, the available floor space should be sufficient to meet the needs of corporations that have submitted, prior to the day of this Budget Speech, a written application regarding the carrying out of activities in these designated sites.

1.1.1 Cité du multimédia

The Cité du multimédia is located near the Old Port of Montréal, in a quadrilateral formed by de la Commune, Duke, William and King streets. The buildings designated for the purposes of this fiscal measure, initially 25 in number, are located within this quadrilateral. The initial designation of these buildings was not subject to a limitation in terms of square metres. However, the rental capacity of the designated buildings determined the maximum rental floor space of the Cité du multimédia.

The precise description of the first 22 buildings, i.e. sites 1 to 22, was given in an appendix to Bulletin d'information 98-3 released on June 23, 1998, while that of the last three buildings, i.e. sites 23 to 25, was given in an appendix to Bulletin d'information 98-8 released on December 22, 1998. On December 12, 2002,[2] the designation of the Cité du multimédia was changed by withdrawing sites 4, 16, 17 and 21. As a result of these withdrawals, the rental capacity of the designated buildings amounts to roughly 110 000 square metres.

The designation of the Cité du multimédia will again be changed as part of this Budget Speech, by withdrawing certain sites. Essentially, the Cité du multimédia will be limited to phases I to VII. Accordingly, the spaces that were to make up phase VIII will be withdrawn, as well as certain other sites or portions of sites.

More specifically, sites 3, 5, 6 and 15, which were to make up phase VIII, will be withdrawn. As well, site 1, a portion of space 8, namely lot 1554,[3] sites 9 and 10, a portion of site 13, namely lot 1564, a portion of site 19, namely lot 1555, and site 23[4] will also be withdrawn. Consequently, the rental capacity of the designated buildings will be roughly 80 000 square metres.

2 *Ibid.*

3 The lots and portions of lots refer to what was provided in an appendix to Bulletin d'information 98-3 released on June 23, 1998, with regard to sites 1 to 22, and in an appendix to Bulletin d'information 98-8 released December 22, 1998, with regard to sites 23 to 25.

4 The buildings comprising the Cité du multimédia are excluded from the Montréal E-Commerce Zone (Zone), another designated site. Accordingly, as a result of their withdrawal from the Cité du multimédia, these buildings will now be part of the Zone. However, while the changes made to the designation of the Cité du multimédia increase the floor space of the Zone, they will have no effect on the total floor space of premises, currently 111 600 square metres, that can be designated within the Zone. For more details concerning the Zone, see subsection 1.2.6.

1.1.2 New economy centres

CNEs are located in each region of Québec. In a given region, the same CNE may be established in more than one urban centre, according to the region's needs. The total floor space available for all regions of Québec is 150 000 square metres and the Minister of Finance is responsible for determining the maximum floor space that may be designated. Investissement Québec is responsible for designating the buildings and floor space attributable to each region. Accordingly, Investissement Québec must ensure that the official designation of rental premises at no time exceeds the limit of 150 000 square metres[5] set by the Minister of Finance.

This overall floor space of 150 000 square metres will be reduced to 130 000 square metres.

1.1.3 E-Commerce Place

E-Commerce Place is located in downtown Montréal and was initially to consist of buildings to be constructed in the quadrilateral formed by de la Montagne, Saint-Antoine and Lucien-L'Allier streets and René-Lévesque boulevard, in addition to three office towers to be built and linked to the Bell Centre.

A brief description of the buildings as well as a sketch showing the site of the buildings were appended to Bulletin d'information 2000-3 released on May 11, 2000. The technical description of the buildings that make up E-Commerce Place is available from Investissement Québec.

The November 1, 2001 Budget Speech announced an initial reduction in the total floor space available for rent[6] in E-Commerce Place, i.e. to roughly 139 500 square metres. It was stipulated that E-Commerce Place would be located in downtown Montréal and consist of buildings to be constructed in a quadrilateral formed by de la Montagne, Saint-Antoine and Lucien-L'Allier streets and René-Lévesque boulevard. The new designation consisted of buildings designated by the letters A to G in the sketch appended to Bulletin d'information 2000-3 released on May 11, 2000.

5 However, this overall floor space of 150 000 square metres does not include portions of the floor space of the CDTIs in Gatineau, Laval, Montréal, Sherbrooke and Québec City, as well as the CDB in Laval, Sherbrooke, Saint-Hyacinthe and Lévis, that can house corporations that want to carry out activities eligible for the tax assistance applicable to CNEs. Neither does this overall floor space of 150 000 square metres include the additional floor space of 7 500 square metres of the CNE de Québec that can be designated within the perimeter of the CNNTQ and which encroaches on the floor space of 47 900 square metres available for the CNNTQ.

6 The expression "total floor space available for rent" has the meaning given to the French expression "superficie louable totale" in section 1.1.2 of the Convention relative à l'implantation d'une Cité du commerce électronique signed May 11, 2000.

On December 12, 2002, the total floor space available for rent in E-Commerce Place was reduced once again, from roughly 139 500 square metres to about 111 600 square metres. Accordingly, the designation of E-Commerce Place currently consists of buildings designated by the letters A and B and a portion of letter C in the sketch appended to Bulletin d'information 2000-3 released on May 11, 2000.

The designation of E-Commerce Place is again changed by the withdrawal of the remaining portion of letter C.[7] Accordingly, the new designation of E-Commerce Place will consist of buildings designated by the letters A and B in the sketch appended to Bulletin d'information 2000-3 released on May 11, 2000. The new technical description of the buildings that make up E-Commerce Place will be available from Investissement Québec.

The total floor space available for rent in the buildings that will comprise E-Commerce Place will accordingly be reduced from roughly 111 600 square metres to about 85 000 square metres.

1.2 Elimination of a number of measures relating to a designated site

1.2.1 Fiscal measures relating to the carrying out of an innovative project

The fiscal measures relating to the carrying out of an innovative project in a designated site enable a corporation that carries out an innovative project in the information and communications technology sector in a CDTI or a CNE, or in the biotechnology sector in a CDB, to receive a five-year tax holiday regarding income tax, the tax on capital and the employer contribution to the HSF. Such a corporation may also receive refundable tax credits of 40% for salaries paid to eligible employees as well as for the acquisition or leasing of eligible specialized equipment. Furthermore, a foreign specialist employed by such a corporation and whose duties are almost exclusively attributable to eligible activities, may receive, for five years, an exemption from tax on his income from such employment.

Lastly, a corporation that carries out an innovative project in the biotechnology sector in a CDB may also claim a refundable tax credit of 40% regarding eligible rent expenses relating to short-term rental of eligible specialized facilities.

7 The buildings comprising E-Commerce Place are excluded from the Montréal E-Commerce Zone (Zone), another designated site. Accordingly, as a result of their withdrawal from E-Commerce Place, these buildings will now be part of the Zone. However, while the changes made to the designation of E-Commerce Place increase the floor space of the Zone, they will have no effect on the total floor space of premises, currently 111 600 square metres, that can be designated within the Zone. For more details concerning the Zone, see subsection 1.2.6.

❑ Elimination of these fiscal measures

The fiscal measures relating to the carrying out of an innovative project in certain designated sites, other than those relating to the carrying out of an innovative project in the biotechnology sector in a CDB, will be eliminated as of the day of this Budget Speech.

However, an exempt corporation, namely a corporation that has obtained an eligibility certificate relating to carrying out an innovative project, may continue to benefit from these fiscal measures, according to terms and conditions already stipulated.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from these fiscal measures if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

However, in the event of acquisition of the control of an exempt corporation[8] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from these fiscal measures, as of the taxation year of the corporation that is deemed to start at the time of the acquisition of control. However, this rule will not apply if control of the exempt corporation is acquired by another exempt corporation.

For greater clarity, a foreign specialist employed by a corporation that can continue to benefit from these fiscal measures may also continue to benefit from a tax holiday, according to the existing rules.[9]

In the case of a foreign specialist employed by a corporation that ceases to be an exempt corporation because of an acquisition of control, his tax holiday ends at the time of such acquisition of control.

Furthermore, the issuing of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to such fiscal measures, since it is up to the ministère du Revenu du Québec (MRQ) to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificates issued by Investissement Québec will confirm only that the eligibility criteria under its responsibility have been checked.

Lastly, it should be repeated that the current definition of an exempt corporation excludes a corporation that results from the merger or unification of a number of corporations.

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8 For greater clarity, for the purposes of this rule, the expression "exempt corporation" also includes a corporation that has submitted a written application to Investissement Québec before the day of this Budget Speech and that, because of such application, may benefit from these fiscal measures.

9 Subject to the changes stipulated in subsection 1.2.11.

❑ Specific case of the carrying out of an innovative project in the biotechnology sector in a CDB

The elimination of the fiscal measures relating to the carrying out of an innovative project in certain designated sites will not apply to those relating to the carrying out of an innovative project in the biotechnology sector in a CDB. However, the amount of tax assistance will be reduced for some corporations.

Accordingly, a corporation that has already obtained an eligibility certificate for carrying out an innovative project in the biotechnology sector in a CDB may, as is the case for carrying out an innovative project in the field of information and communications technology in a CDTI or a CNE, continue to benefit from these fiscal measures, accordingly to the terms and conditions already stipulated, and, for greater clarity, according to the level of assistance previously stipulated.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from these fiscal measures, and, for greater clarity, according to the level of assistance previously stipulated.[10]

"Other corporations", i.e. corporations that are not covered by the two rules indicated above, will receive less tax assistance.

More specifically, the tax legislation will be amended to reduce by 25%, according to the terms and conditions described below, the level of assistance of the fiscal measures regarding the carrying out of an innovative project in the biotechnology sector in a CDB, for these other corporations.

In addition, the terms and conditions indicated above concerning acquisitions of control will apply to the carrying out of an innovative project in the biotechnology sector in a CDB, to determine whether a corporation can benefit from the previously stipulated level of assistance or from a reduced level of assistance.

In this context, Investissement Québec will indicate, in the course of issuing the eligibility certificate to an exempt corporation, whether a corporation may receive a previously stipulated level of assistance or the new level of assistance.

10 As in the case of the carrying out of an innovative project in the field of information and communications technology in a CDTI or a CNE, the other conditions otherwise applicable must be satisfied and, in order to be considered, the application must be supported by the documents required for the determination of the corporation's eligibility.

However, the fact that an eligibility certificate issued by Investissement Québec to an exempt corporation indicates that such corporation can receive the previously stipulated level of assistance shall not provide an absolute guarantee that it is entitled to such level of assistance, since it is up to the MRQ to establish whether the tax rules regarding an acquisition of control apply in a given situation. In this context, such an indication by Investissement Québec shall only confirm that the corporation in question held an eligibility certificate on the day of this Budget Speech or had submitted an application, according to the terms and conditions described above, before the day of this Budget Speech.

- **Tax holiday**

The five-year tax holiday available to an exempt corporation regarding income tax, the tax on capital and the employer contribution to the HSF will be reduced by 25%.

For greater clarity in this respect, in a case of acquisition of control of an exempt corporation[11] on the day of this Budget Speech or thereafter, the tax holiday will continue to apply for the remainder of the five-year period, but will be limited to 75% of the amounts on which it currently applies, as of the taxation year of the corporation that is deemed to begin at the time of the acquisition of control.

- **Refundable tax credit on salaries**

The rate of the refundable tax credit on salaries will be reduced from 40% to 30%.

This 30% rate will apply to a corporation that cannot receive the previously stipulated level of assistance. It will also apply to a corporation that could receive the previously stipulated level of assistance but no longer can because of an acquisition of control and, in such a case, as of the taxation year of the corporation that is deemed to begin at the time of the acquisition of control.

- **Refundable tax credit regarding eligible specialized equipment**

The rate of the refundable tax credit regarding eligible specialized equipment will be reduced from 40% to 30%.

11 Except when control of the exempt corporation is acquired by another exempt corporation.

This 30% rate will apply to a corporation that cannot receive the previously stipulated level of assistance. It will also apply to a corporation that could receive the previously stipulated level of assistance but no longer can because of an acquisition of control and, in such a case, as of the taxation year of the corporation that is deemed to begin at the time of the acquisition of control.

- **Refundable tax credit for short-term rental of eligible specialized facilities**

The rate of the refundable tax credit for short-term rental of eligible specialized facilities will be reduced from 40% to 30%.

This 30% rate will apply to a corporation that cannot receive the previously stipulated level of assistance. It will also apply to a corporation that could receive the previously stipulated level of assistance but no longer can because of an acquisition of control and, in such a case, as of the taxation year of the corporation that is deemed to begin at the time of the acquisition of control.

- **Five-year tax holiday granted to a foreign specialist**

The application details of the five-year tax holiday that may be claimed by a foreign specialist employed by a corporation that carries out an innovative project in the biotechnology sector in a CDB are described in subsection 1.3.18.

1.2.2 Fiscal measures relating to the carrying out of specified activities

The fiscal measures relating to the carrying out of specified activities in a designated site enable a corporation that carries out such activities in a CNE, a CDTI, the Cité du multimédia or the CNNTQ, to claim a refundable tax credit of 40% regarding the salaries paid to specified employees. Furthermore, a foreign specialist employed by such a corporation and whose duties are almost exclusively attributable to specified activities may receive, for five years, an exemption from tax on his income from such employment.

The fiscal measures relating to the carrying out of specified activities in certain designated sites will be eliminated as of the day of this Budget Speech.

However, a specified corporation for which an eligibility certificate has been obtained before the day of this Budget Speech may continue to benefit from these fiscal measures according to the previously stipulated terms and conditions.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from these fiscal measures if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

Nonetheless, in the event of acquisition of the control of a specified corporation[12] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from these fiscal measures, as of the taxation year of the corporation that is deemed to start at the time of the acquisition of control. However, this rule will not apply if control of the specified corporation is acquired by another specified corporation.

In the case of a foreign specialist employed by a corporation that ceases to be a specified corporation because of an acquisition of control, his tax holiday will end at the time of such acquisition of control.

Furthermore, Investissement Québec may in exceptional cases issue an eligibility certificate to a corporation even if the application for such certificate was submitted on or after the day of this Budget Speech.

Accordingly, a corporation may obtain an eligibility certificate for carrying out specified activities in a designated site when it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was a specified corporation and control of such specified corporation was not acquired in such reorganization.[13] Similarly, a parent corporation that winds up a wholly owned specified corporation may obtain such an eligibility certificate.

However, in the above-described exceptional situations, a specified corporation that continues, in a designated site, to carry out specified activities, which specified activities had previously been carried out by another specified corporation, may continue to benefit from these fiscal measures solely for the remainder of the period applicable to such other specified corporation.

In addition, a foreign specialist employed by a corporation that can continue to benefit from these fiscal measures may also continue to benefit from a tax holiday according to existing rules.[14]

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12 For greater clarity, for the purposes of this rule, the use of the expression "specified corporation" also covers a corporation that submitted a written application to Investissement Québec before the day of this Budget Speech and, because of such application, can benefit from these fiscal measures.

13 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

14 Subject to the changes stipulated in subsection 1.2.11.

Lastly, the issuance of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to such fiscal measures, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificate issued by Investissement Québec will confirm only that the eligibility criteria under its responsibility have been checked.

1.2.3 Fiscal measures relating to the carrying out of eligible activities in E-Commerce Place

E-Commerce Place, located in downtown Montréal, was created on May 11, 2000. Briefly, eligible corporations that move into E-Commerce Place can receive tax assistance with respect to eligible salaries they incur and pay to eligible employees to carry out eligible activities.

The rate of this tax assistance is generally 35% but may be reduced beginning in the sixth year of operation of an eligible corporation in E-Commerce Place, if the eligible corporation has not created a minimum number of jobs in Québec.

Initially, this tax assistance consisted of a refundable tax credit. However, in the Supplement to the Government's Budgetary Policy of March 19, 2002, an election was introduced allowing an eligible corporation to elect to claim either the refundable tax credit or a refundable credit of employer HSF contribution. The election is possible regarding taxation years of an eligible corporation ending after March 19, 2002.

The fiscal measures relating to the carrying out of eligible activities in E-Commerce Place will be eliminated as of the day of this Budget Speech.

For greater clarity, this elimination will apply both to the refundable tax credit and the refundable credit of employer HSF contribution.

However, an eligible corporation for which an eligibility certificate was obtained before the day of this Budget Speech may continue to benefit from these fiscal measures, according to the terms and conditions previously stipulated.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from these fiscal measures if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

Nonetheless, in the event of acquisition of the control of an eligible corporation[15] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from these fiscal measures, as of the taxation year of the corporation that is deemed to start at the time of the acquisition of control. However, this rule will not apply if control of the eligible corporation is acquired by another eligible corporation.

In the case of a foreign specialist employed by a corporation that ceases to be an eligible corporation because of an acquisition of control, his tax holiday will end at the time of such acquisition of control.

Furthermore, Investissement Québec may in exceptional cases issue an eligibility certificate to a corporation even if the application for such certificate was submitted on or after the day of this Budget Speech.

Accordingly, a corporation may obtain an eligibility certificate for carrying out eligible activities in E-Commerce Place when it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was an eligible corporation that carried out eligible activities in E-Commerce Place and control of such eligible corporation was not acquired in such reorganization.[16] Similarly, a parent corporation that winds up a wholly owned eligible corporation may obtain such an eligibility certificate.

However, in the above-described exceptional situations, an eligible corporation that continues, in E-Commerce Place, to carry out eligible activities, which eligible activities had previously been carried out by another eligible corporation, may continue to benefit from these fiscal measures solely for the remainder of the period applicable to such other eligible corporation.

In addition, a foreign specialist employed by a corporation that can continue to benefit from these fiscal measures may also continue to benefit from a tax holiday according to existing rules.[17]

Lastly, the issuance of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to such fiscal measures, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificate issued by Investissement Québec will confirm only that the eligibility criteria under its responsibility have been checked.

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15 For greater clarity, for the purposes of this rule, the use of the expression "eligible corporation" also covers a corporation that submitted a written application to Investissement Québec before the day of this Budget Speech and, because of such application, can benefit from these fiscal measures.

16 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

17 Subject to the changes stipulated in subsection 1.2.11.

1.2.4 Refundable tax credit for the Cité de l'optique

The refundable tax credit for the Cité de l'optique, introduced on June 30, 1999,[18] is granted regarding the increase in payroll attributable to production or commercialization employees of an eligible corporation operating in the optics, photonics or laser sector, in the Québec City region.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by the ministère du Développement économique et régional.

The rate of this refundable tax credit, for a given calendar year, is 40%. Briefly, this rate is applied to the amount by which the salaries paid by the eligible corporation to its eligible employees for the calendar year exceeds the salaries paid to eligible employees during the preceding calendar year. This measure applies for calendar years 1999 to 2006.

The refundable tax credit for the Cité de l'optique will be eliminated as of the day of this Budget Speech.

However, an eligible corporation for which an eligibility certificate was obtained before the day of this Budget Speech may continue to benefit from this tax credit, according to the terms and conditions previously stipulated.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to the ministère du Développement économique et régional, before the day of this Budget Speech, may also benefit from the refundable tax credit if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

Nonetheless, in the event of acquisition of the control of an eligible corporation[19] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from the tax credit, as of the calendar year in which such acquisition of control occurs. However, this rule will not apply if control of the eligible corporation is acquired by another eligible corporation.

Furthermore, the ministère du Développement économique et régional may in exceptional cases issue an eligibility certificate to a corporation even if the application for such certificate was submitted on or after the day of this Budget Speech.

18 Bulletin d'information 99-1.

19 For greater clarity, for the purposes of this rule, the use of the expression "eligible corporation" also covers a corporation that submitted a written application to the ministère de Développement économique et régional before the day of this Budget Speech and, because of such application, can benefit from this tax credit.

Accordingly, a corporation may obtain an eligibility certificate when it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was a corporation eligible for the tax credit and control of such eligible corporation was not acquired in such reorganization.[20] Similarly, a parent corporation that winds up a wholly owned eligible corporation may obtain such an eligibility certificate.

Lastly, the issuance of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to the tax credit, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificate issued by the ministère du Développement économique et régional will confirm only that the eligibility criteria under its responsibiiity have been checked.

1.2.5 Refundable tax credit for the Technopôle Angus

The refundable tax credit for the Technopôle Angus, introduced in the March 14, 2000 Budget Speech, applies regarding the increase in payroll attributable to production or commercialization employees of an eligible corporation operating either in the field of manufacturing or processing goods, or in the environmental field. The tax assistance is granted to corporations that move into the site of the former Angus shops, within the territory of the City of Montréal.

The rate of this refundable tax credit is 40%. In general, this rate applies to the amount by which the salaries paid by the eligible corporation to its eligible employees, for a given calendar year, exceeds the salaries paid to eligible employees during the preceding calendar year. This measure applies for calendar years 2000 to 2006.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec.

The refundable tax credit for the Technopôle Angus will be eliminated as of the day of this Budget Speech.

However, an eligible corporation for which an eligibility certificate was obtained before the day of this Budget Speech may continue to benefit from this tax credit, according to the terms and conditions previously stipulated.

20 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from the refundable tax credit if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

Nonetheless, in the event of acquisition of the control of an eligible corporation[21] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from the tax credit, as of the calendar year in which such acquisition of control occurs. However, this rule will not apply if control of the eligible corporation is acquired by another eligible corporation.

Furthermore, Investissement Québec may in exceptional cases issue an eligibility certificate to a corporation even if the application for such certificate was submitted on or after the day of this Budget Speech.

Accordingly, a corporation may obtain an eligibility certificate when it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was a corporation eligible for the tax credit and control of such eligible corporation was not acquired in such reorganization.[22] Similarly, a parent corporation that winds up a wholly owned eligible corporation may obtain such an eligibility certificate.

Lastly, the issuance of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to the tax credit, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificate issued by Investissement Québec will confirm only that the eligibility criteria under its responsibility have been checked.

1.2.6 *Fiscal measures relating to e-business activities*

❑ Refundable tax credit for e-business activities carried out in certain designated sites

The refundable tax credit for e-business activities carried out in certain designated sites was introduced in the November 1, 2001 Budget Speech.

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21 For greater clarity, for the purposes of this rule, the use of the expression "eligible corporation" also covers a corporation that submitted a written application to Investissement Québec before the day of this Budget Speech and, because of such application, can benefit from this tax credit.

22 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

Generally speaking, this refundable tax credit, whose rate is 35%, is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation that moves into designated premises located either in the Montréal E-Commerce Zone or in the CNNTQ, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec.

The refundable tax credit for e-business activities carried out in certain designated sites will be eliminated as of the day of this Budget Speech.

However, an eligible corporation for which an eligibility certificate was obtained before the day of this Budget Speech may continue to benefit from this tax credit, according to the terms and conditions previously stipulated.

Similarly, a corporation for which a written application for an eligibility certificate has been submitted to Investissement Québec, before the day of this Budget Speech, may also benefit from this refundable tax credit if it otherwise satisfies the other application conditions. To be considered, such an application must be supported by the documents needed to determine the corporation's eligibility.

Nonetheless, in the event of acquisition of the control of an eligible corporation[23] on the day of this Budget Speech or afterwards, such corporation may no longer benefit from the tax credit, as of the calendar year in which such acquisition of control occurs. However, this rule will not apply if control of the eligible corporation is acquired by another eligible corporation.

Furthermore, Investissement Québec may in exceptional cases issue an eligibility certificate to a corporation even if the application for such certificate was submitted on or after the day of this Budget Speech.

Accordingly, a corporation may obtain an eligibility certificate when it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was a corporation eligible for the tax credit and control of such eligible corporation was not acquired in such reorganization.[24] Similarly, a parent corporation that winds up a wholly owned eligible corporation may obtain such an eligibility certificate. In these two cases, the expiry of the eligible corporation will be established on the basis of the reference calendar year of the eligible corporation that held the first certificate.

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23 For greater clarity, for the purposes of this rule, the use of the expression "eligible corporation" also covers a corporation that submitted a written application to Investissement Québec before the day of this Budget Speech and, because of such application, can benefit from this tax credit.

24 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

Lastly, the issuance of an eligibility certificate, in the above-described situations, provides no absolute guarantee of the right to the tax credit, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificate issued by Investissement Québec will confirm only that the eligibility criteria under its responsibility have been checked.

❑ Tax holiday for foreign specialists working in the e-business sector in certain designated sites

A tax holiday is granted to foreign specialists employed by an eligible corporation that carries on a certified business in one of the designated sites mentioned above. A specialist employed by such a corporation can thus claim, for a period of five years, an exemption from tax on his income from such employment.

As mentioned above, in case of the acquisition of control of an eligible corporation on the day of this Budget Speech or thereafter, such corporation may no longer benefit from the refundable tax credit.

Consequently, the tax holiday of a foreign specialist employed by such corporation will end at the time of the acquisition of control of such eligible corporation. However, this rule will not apply if control of the eligible corporation is acquired by another eligible corporation.

For greater clarity, a foreign specialist employed by a corporation that remains eligible for the tax credit may continue to benefit from his tax holiday, according to existing rules.[25]

1.2.7 Fiscal measures relating to biotechnology development

❑ Refundable tax credit for biotechnology development in certain designated sites

The refundable tax credit for biotechnology development in certain designated sites was introduced in the March 19, 2002 Supplement to the Government's Budgetary Policy.

Generally speaking, this refundable tax credit, whose rate is 40%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the biotechnology field, for three consecutive calendar years.

25 Subject to the changes stipulated in subsection 1.2.11.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec. In addition, this corporation must move into a designated site, either the Cité de la biotechnologie et de la santé humaine du Montréal métropolitain, the Zone de développement des biotechnologies de Sherbrooke or the Cité de la biotechnologie agroalimentaire, vétérinaire et agroenvironnementale de Saint-Hyacinthe.

These designated sites include, in particular, buildings designated as a CDB, since a corporation operating in a CDB may also carry on a certified business for the purposes of this tax credit. Although the Zone de développement des biotechnologies de Sherbrooke is a designated site, its perimeter has yet to be specified. Accordingly, a clarification will be made to indicate that the Zone de développement des biotechnologies de Sherbrooke will correspond to the territory on which the buildings designated as a CDB in the Sherbrooke region are located.

The refundable tax credit for biotechnology development in certain designated sites will be eliminated as of the day of this Budget Speech, according to the same terms and conditions as those indicated in the case of the refundable tax credit for e-business activities carried out in certain designated sites.

❑ Tax holiday for foreign specialists working in certain designated biotechnology sites

A tax holiday is granted to foreign specialists employed by an eligible corporation that carries on a certified business in a designated site. A specialist employed by such a corporation can thus claim, for a period of five years, an exemption from tax on his income from such employment.

The tax holiday for foreign specialists working in certain designated biotechnology sites will be changed according to the same terms and conditions as those indicated in the case of the tax holiday for foreign specialists working in the e-business activities sector in certain designated sites.

1.2.8 Fiscal measures relating to nutraceuticals and functional foods

❑ Refundable tax credit for nutraceuticals and functional foods

The refundable tax credit for nutraceuticals and functional foods was introduced in the Supplement to the Government's Budgetary Policy of March 19, 2002.

Generally speaking, this refundable tax credit, whose rate is 40%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the functional foods and nutraceuticals sector in the Québec City region for three consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec.

The refundable tax credit for nutraceuticals and functional foods will be eliminated as of the day of this Budget Speech, according to the same terms and conditions as those indicated in the case of the refundable tax credit for e-business activities carried out in certain designated sites.

❑ Tax holiday for foreign specialists working in the nutraceutical and functional foods sector

A tax holiday is granted to foreign specialists employed by an eligible corporation that carries on a certified business in the Québec City region. A specialist employed by such a corporation can thus claim, for a period of five years, an exemption from tax on his income from such employment.

The tax holiday for foreign specialists working in the nutraceuticals and functional foods sector will be changed according to the same terms and conditions as those indicated in the case of the tax holiday for foreign specialists working in the e-business activities sector in certain designated sites.

1.2.9 Fiscal measures relating to innovation centres

❑ Refundable tax credit for innovation centres

The refundable tax credit for innovation centres was introduced in the March 19, 2002 Supplement to the Government's Budgetary Policy.

Generally speaking, this refundable tax credit, whose rate is 40%, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation that moves into a designated site, namely the Carrefour de l'innovation de Montréal or the Carrefour de l'innovation de Québec, for five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec.

The refundable tax credit for innovation centres will be eliminated as of the day of this Budget Speech, according to the same terms and conditions as those indicated in the case of the refundable tax credit for e-business activities carried out in certain designated sites.

❑ Tax holiday for foreign specialists working in innovation centres

A tax holiday is granted to foreign specialists employed by an eligible corporation that carries on a certified business in a designated site. A specialist employed by such a corporation can thus claim, for a period of five years, an exemption from tax on his income from such employment.

The tax holiday for foreign specialists working in innovation centres will be changed according to the same terms and conditions as those indicated in the case of the tax holiday for foreign specialists working in the e-business activities sector in certain designated sites.

1.2.10 Montréal Foreign Trade Zone at Mirabel

Briefly, a corporation that carries on a business within the Montréal Foreign Trade Zone at Mirabel (Mirabel zone), in the fields of international logistics, aircraft maintenance and repair, supplementary training in aviation or light manufacturing, or a business that, in the view of the Minister of Finance, is of particular interest for Québec's economy, receives, for a maximum of ten years or for a shorter period beginning after January 1, 2004 and ending December 31, 2013, tax benefits[26] consisting of:

— an income tax holiday, on the income from carrying on such a business;

— holiday from the tax on capital, in relation to the portion of the corporation's paid-up capital that is reasonably attributable to the operation of such a business;

— an exemption from the employer contribution to the HSF, in relation to salaries paid to the employees of such a business who carry out at least 75% of their duties within the Mirabel zone.

In this regard, to receive an eligibility certificate from the Minister of Finance concerning a business carried on by a corporation, such corporation must submit to the Société de développement de la Zone de commerce international de Montréal à Mirabel (Société de développement) a business plan demonstrating that the activities of the business complement the activities of businesses already carried on elsewhere in Québec, and that such activities will give rise to job creation.

26 A corporation that is a member of a partnership that carries on a business in the Mirabel zone can also benefit from the tax benefits relating to this zone.

Furthermore, a corporation may also claim, during the same period, tax benefits consisting of refundable tax credits for the wages incurred regarding its eligible employees, the fees incurred regarding an eligible customs brokerage contract and the acquisition expenses or rent paid for eligible equipment.

Moreover, a corporation that carries on a business in Québec and has an establishment there, and constructs or has constructed a strategic building within the territory of the Mirabel zone for which the construction work starts before January 1, 2014 receives a refundable tax credit regarding the eligible construction expenses it incurs during a taxation year for the construction of a strategic building.

Lastly, a foreign specialist employed by a corporation that carries on a recognized business for the purposes of the tax benefits relating to the Mirabel zone may claim a tax holiday on all of its income for a period of five years.

Elimination of tax holidays and refundable tax credits regarding salaries of eligible employees, the fees incurred regarding an eligible customs brokerage contract and the acquisition expenses or rent paid for eligible equipment

As of the day of this Budget Speech, the income tax holiday, the capital tax holiday, the holiday from the employer contribution to the HSF and the refundable tax credits regarding salaries of eligible employees, the fees incurred regarding an eligible customs brokerage contract and the acquisition expenses or rent paid for eligible equipment will be eliminated. Accordingly, as of this day, the Minister of Finance will no longer issue eligibility certificates regarding these tax benefits.

However, a corporation may continue to receive these tax benefits, and the Minister of Finance will continue to issue eligibility certificates in this regard, if a corporation carries on a business regarding which an eligibility certificate is in effect on the day of this Budget Speech.

In addition, a corporation that submits a written application to the Société de développement, before the day of the Budget Speech, regarding a business it plans to carry on in the Mirabel zone, may also receive these tax benefits and the Minister of Finance will continue to issue eligibility certificates in this regard. To be considered, such application must be supported by the documents needed to determine the eligibility of the business, in particular including the business plan of the business showing that its activities will complement the activities of businesses already carried on elsewhere in Québec.

Accordingly, a corporation may continue to benefit from such tax benefits for the remainder of the period applicable to the business it carries on in the Mirabel zone, after the day of this Budget Speech, provided all the other conditions otherwise applicable are satisfied.

Nonetheless, in the event of acquisition of the control of a corporation that carries on a business recognized for the purposes of the tax benefits relating to the Mirabel zone (recognized business), on the day of this Budget Speech or afterwards, such corporation may no longer benefit from the tax benefits relating to this zone as of the taxation year of the corporation that is deemed to start at the time of the acquisition of control. However, this rule will not apply if control of such a corporation is acquired by another corporation that carries on a recognized business in the Mirabel zone.

For greater clarity, a foreign specialist employed by a corporation that can continue to receive the tax benefits relating to the Mirabel zone may also continue to benefit from his tax holiday according to the existing rules.[27]

However, in the case of a foreign specialist employed by a corporation that may no longer receive these tax benefits because of an acquisition of control, his tax holiday ends at the time of such acquisition of control.

In addition, the Minister of Finance may in exceptional cases issue an eligibility certificate regarding a business that is carried on by a corporation in the Mirabel zone even if the application for such certificate is submitted to the Société de développement on the day of this Budget Speech or afterwards.

In this regard, a corporation may obtain a certificate in relation to a recognized business it continues to carry on in the Mirabel zone if such corporation is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was a corporation that carried on such recognized business and control of such corporation was not acquired in such reorganization.[28]

Similarly, a parent corporation that continues to carry on, in the Mirabel zone, a recognized business following the winding-up of a wholly owned corporation that carried on the recognized business may obtain an eligibility certificate for such business.

27 Subject to the changes stipulated in subsection 1.2.11.

28 In this regard, the rules stipulated in the *Taxation Act* will apply to determine whether or not control of a corporation has been acquired. For greater clarity, the exception rules under which control of a replaced corporation is deemed not to have been acquired pursuant to a merger will be considered in such determination.

However, in the above-described exceptional situations, a corporation that continues to carry on, in the Mirabel zone, a recognized business that was previously carried on by another corporation, may continue to receive such tax benefits solely for the remainder of the period applicable to the recognized business that started when such business was carried by such other corporation.

Lastly, the issuance of an eligibility certificate for a business that is carried on in the Mirabel zone, in the above-described situations, provides no absolute guarantee of the right to the tax benefits relating to the Mirabel zone, since it is up to the MRQ to establish whether the tax rules relating to an acquisition of control apply in a given situation. In this context, the eligibility certificates issued by the Minister of Finance will confirm only that the eligibility criteria under the responsibility of the ministère des Finances have been checked.

❑ Elimination of the refundable tax credit for the construction, renovation or conversion of strategic buildings

The refundable tax credit for the construction, renovation or conversion of strategic buildings will be eliminated as of the day following the day of this Budget Speech.

However, in the situations described below, a corporation may continue to receive this refundable tax credit and the Minister of Finance may continue to issue eligibility certificates in this regard.

First, a corporation, other than a corporation that carries on a recognized business, may continue to receive this refundable tax credit, after the day of this Budget Speech, regarding a strategic building for which the construction, renovation or conversion work began no later than the day of this Budget Speech.

Such a corporation may also receive this refundable tax credit, after the day of this Budget Speech, regarding a strategic building for which the construction, renovation or conversion work begin after the day of this Budget Speech. Such construction, renovation or conversion work must however be carried out pursuant to a contract concluded no later than the day of this Budget Speech, with a corporation that carries on a recognized business regarding which an eligibility certificate is in force on such day, or with a corporation that submitted a written application to the Société de développement, before the day of this Budget Speech, regarding a business it plans to carry on in the Mirabel zone.

Second, a corporation that carries on a recognized business regarding which an eligibility certificate is in force on the day of this Budget Speech, or that submitted a written application to the Société de développement before the day of this Budget Speech, regarding a business it plans to carry on in the Mirabel zone, may continue to receive this refundable tax credit regarding a strategic building that relates to such business, after the day of this Budget Speech, regardless of the starting date of the construction, renovation or conversion work on such building.

However, in all situations, only the eligible construction, renovation or conversion expenses incurred in relation to work carried out no later than twelve months after the day of this Budget Speech may give rise to this tax credit.

❑ Reduction of the recapture period of the refundable tax credit for the construction, renovation or conversion of strategic buildings

A rule regarding the integrity of the refundable tax credit for construction, renovation or conversion of strategic buildings was instituted regarding the use that must be made of a building for which a tax credit is granted.

Briefly, this rule stipulates the full recapture of this tax credit if a strategic building is alienated during the five-year period following the year during which the work on such building is completed (the year of completion of work). The same applies in situations where, during such five-year period, less than 75% of the total space of the strategic building is used by one or more recognized businesses.

The rule also stipulates the partial recapture of this tax credit if a strategic building is alienated or if less than 75% of the total space of the building is used by one or more recognized businesses, during the period beginning in the sixth year and ending in the fourteenth year following the year of completion of work.

In the context in which the tax benefits relating to the Mirabel zone will be eliminated as of the day of this Budget Speech, only those corporations that, on that day, carry on a recognized business or have filed, before that day, a certification application that is sufficiently complete in relation to a business, may receive the tax benefits relating to the Mirabel zone, for a maximum of ten years ending no later than December 31, 2013.

In this regard, since there will be no new recognized businesses as of the day of this Budget Speech, the criterion relating to the use that must be made of a strategic building will be eased so that the recapture period of the refundable tax credit for construction, renovation or conversion of a strategic building will be reduced.

More specifically, the current tax legislation will remain unchanged concerning the total recapture of this tax credit for the period of five years that follows the year of completion of work.

However, the tax legislation will be amended so that the current period of fourteen years following the year of completion of work, during which the corporation must annually file a certification application with the Société de développement concerning the eligibility of a building, will be reduced to nine years.

Accordingly, if a corporation fails to satisfy this requirement, for a taxation year, during any year from the sixth to the ninth year following the completion of work, the tax credit granted regarding a strategic building during the prior taxation years will be partially recaptured, according to the recapture percentage determined by the following formula:

$[(10 - A) \times 20] \div 100$

In this formula, the letter A, which has a minimum value of 6, represents the number of taxation years, including the year during which the corporation fails to satisfy the requirement, following the year of completion of work.

For greater clarity, all the other application details of this tax credit will remain unchanged.

This change will apply as of the day of this Budget Speech.

1.2.11 Five-year tax holidays granted to certain foreign employees

Briefly, an individual who is not a resident of Canada, and who comes to Québec to work in certain specialized sectors, can receive a tax holiday on his salary or all his income, as the case may be, for a period of five years.

Such an individual can benefit from a single five-year exemption period, applicable for all tax holidays granted to certain foreign employees. Accordingly, the exemption period applicable to each tax holiday granted to foreign employees is calculated taking into account any previous exemption period established regarding such individual, under all of these tax holidays and the total of such periods may not exceed five years.

In addition, all the tax holidays granted to foreign employees are subject to a common eligibility condition, i.e. that the foreign employee must not have resided in Canada immediately prior to either concluding his employment contract or taking up his duties.

However, the tax legislation stipulates exceptions to this eligibility condition, in particular to enable an employee to change jobs while he continues to reside in Canada, yet still continue to benefit from a tax holiday for foreign employees, even though there was an interruption in employment. In this regard, the five-year exemption period applicable to such tax holidays is calculated without regard for the period of interruption between eligible jobs for the purposes of these tax holidays.

As of the day following the day of this Budget Speech, the tax holidays listed below will be eliminated:

- a specialist employed by a corporation that carries out an innovative project in certain designated sites, other than a CDB;
- a specialist employed by a corporation that carries on a business in certain designated biotechnology sites;
- a specialist employed by a corporation that carries on a business in the nutraceutical and functional foods sector;
- a specialist employed by a corporation that carries on a business in the Cité du multimédia, the CNNTQ, a CNE, an innovation centre or E-Commerce Place;
- a specialist working in the e-business sector for a corporation that carries on a business in the CNNTQ or the Montréal E-Commerce Zone;
- a specialist who works for a person that carries on a business in the Mirabel zone.

Accordingly, the organizations responsible for issuing eligibility certificates for the purposes of these tax holidays will no longer issue eligibility certificates in relation to an individual who concludes an employment contract after the day of this Budget Speech.

However, these organizations will continue to issue the eligibility certificates required on an annual basis for the purposes of the above-mentioned tax holidays in regard to an individual who concluded an employment contract before the day these tax holidays are eliminated, and who commences employment no later than September 1, 2003, provided such individual does not change jobs as of the day these tax holidays are eliminated.

These organizations will also continue to issue eligibility certificates in relation to such an individual in situations in which he may avail himself of the exception stipulated in the current tax legislation regarding the renewal of an employment contract, which exception stipulates, briefly, that the renewed contract is deemed not to be a contract separate from the first employment contract concluded by such individual when he was not a resident of Canada.

In the same vein, these organizations will also continue to issue eligibility certificates in relation to such an individual in situations in which he may avail himself of one of the exceptions that will be introduced into the tax legislation, as described below.

Thus, the tax legislation will be amended so as not to penalize, in certain circumstances, an individual who concluded an employment contract before the day the above-mentioned tax holidays are eliminated, who commenced employment no later than September 1, 2003, and who concludes a new employment contract with a new eligible employer as of the day these tax holidays are eliminated.

More specifically, for the purposes of these tax holidays, a new employment contract concluded after the day of this Budget Speech by such an individual, will be deemed not to be a contract separate from the first contract concluded by such individual with an eligible employer while he was not a resident of Canada, when such new employment contract is concluded with a subsidiary controlled by the eligible employer or a corporation that controls the eligible employer, provided such new employer qualifies as an eligible employer for the purposes of the same tax holiday.

The same will apply when the new contract is concluded with a corporation that continues to carry on the business of the eligible employer, because of the alienation by such employer of his assets in consideration for shares of the capital stock of such corporation or because of the attribution to such corporation of the assets of the eligible employer following its winding-up, other than the winding-up of a corporation wholly owned by another corporation. In such situations as well, the new employer will have to qualify as an eligible employer for the purposes of the tax holiday claimed by the individual.

For greater clarity, the MRQ will administer the presumptions described above, in relation to situations in which a new employment contract is deemed not to be separate from the first employment contract an individual concluded with an eligible employer when he was not a resident of Canada.

Furthermore, after the day of this Budget Speech, an individual regarding whom an eligibility certificate is issued in the above-described circumstances, by an organization responsible for issuing eligibility certificates for the purposes of these tax holidays, may continue to benefit from such tax holidays for the remainder of the five-year period applicable regarding him.

As well, since there is continuity of the employer-employee contractual relationship in certain corporate reorganizations, no specific exception is required in this regard in the tax legislation.

For greater clarity, when, at a given time after the day of this Budget Speech, an employer continues to carry on a business following a corporate reorganization, in the case of a merger or the winding-up of a corporation wholly owned by another corporation for instance, an individual may continue to benefit from a tax holiday from which he benefited at such time, for the remainder of the five-year period applicable regarding him, provided such employer qualifies as an eligible employer for the purposes of such tax holiday.

1.3 Assistance reduced 25% in some cases

In the interests of restoring order to public finances and securing adequate funding for the public services the government provides, cuts must be made in the assistance granted to businesses through fiscal measures.

Nonetheless, a review of these measures has led to the conclusion that some refundable tax credits and some tax holidays, because of the support they provide for their target sectors or regions, must be maintained. However, the tax assistance provided by these measures will be reduced by 25%, on the basis of the specific features of each of them.

All the measures affected by this reduction as well as their new parameters are described in this subsection.

1.3.1 Refundable tax credit for technology adaptation services

The March 9, 1999 Budget Speech introduced a refundable tax credit, consisting of two components, to support small businesses in gathering and processing strategic information and cooperating in research and innovation. The first component of this tax credit concerns competitive information, i.e. the results of intelligence activities carried out by a competitive intelligence centre, while the second concerns liaison and transfer services.

Briefly, the tax credit an eligible corporation may claim, for a taxation year, is determined by multiplying by 40% the amount of eligible expenditures the eligible corporation incurred, during such year, with an eligible competitive intelligence centre, an eligible liaison and transfer centre, or an eligible college technology transfer centre, as the case may be.

The tax legislation will be amended to reduce the rate of the refundable tax credit for technology adaptation services to 30%.

This change will apply regarding eligible expenditures incurred by an eligible corporation after the day of this Budget Speech, pursuant to a contract concluded after such day, if applicable.

1.3.2 Refundable tax credit for design

The refundable tax credit for design has two components and applies regarding certain expenditures that an eligible corporation incurs in relation to its eligible design activities. The first component concerns industrial design or fashion design activities carried out under an external consulting contract. The second covers salary expenditures incurred by the corporation regarding designers it employs, for the fashion and furnishings sector.

The rate of the refundable tax credit for design regarding these two components is 20%. This rate may rise to 40% in the case of a corporation that qualifies as an SME.[29]

In the context of the review of the level of tax assistance of all preferential measures regarding businesses, the rate of this tax credit will be reduced by 25%.

More specifically, the tax legislation will be amended to provide that the rate of the refundable tax credit for design is reduced to 15%.

In the case of a corporation that qualifies as an SME, which can benefit from a rate varying from 40% to 20% depending on the amount of its assets, this rate will vary from 30% to 15%, according to the same terms and conditions as those that currently apply. The following table illustrates the effect of this reduction.

TABLE 1

ILLUSTRATION OF THE GRADUAL REDUCTION OF THE HIGHER RATE DEPENDING ON THE AMOUNT OF ASSETS

Assets of the corporation (Millions of dollars)	Current rate (%)	New rate (%)
25 or less	40	30
30	36	27
35	32	24
37.5	30	22.5
40	28	21
45	24	18
50	20	15

29 Briefly, a corporation whose assets, including the assets of associated corporations, do not exceed $50 million for the preceding fiscal year.

This change will apply regarding eligible design activities carried out after the day of this Budget Speech, pursuant to an external consulting contract concluded after that day. It will also apply in relation to salary expenditures incurred by an eligible corporation after that day regarding the designers it employs.

1.3.3 Refundable tax credit for on-the-job training periods

Briefly, a taxpayer can, under certain conditions, claim a refundable tax credit for an on-the-job training period when a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec. The rate of this tax credit is 40% if the taxpayer is a corporation and 20% in other cases.

Furthermore, the tax credit that a taxpayer can thus receive is determined according to the eligible expenditure incurred regarding an eligible intern. Such expenditure depends on a maximum hourly rate for salaries paid to the eligible intern and to an eligible supervisor, that is $15 and $30 respectively. In addition, the eligible expenditure regarding the eligible intern is capped at $500 or $625 per week, depending on the eligible intern concerned.[30]

As a consequence of the 25% reduction in the level of tax assistance, the tax legislation will be amended to lower the rates of the tax credit. Accordingly, the rate of this tax credit will be 30% when the taxpayer is a corporation and 15% in other cases.

For greater clarity, all the other parameters currently stipulated for the purposes of this tax credit remain unchanged.

These changes will apply regarding an eligible expenditure incurred after the day of this Budget Speech, in relation to an eligible training period beginning after that day.

1.3.4 Refundable tax credit for the production of multimedia titles (general component) and refundable tax credit for corporations specializing in the production of multimedia titles

An initial refundable tax credit relative to the production of multimedia titles (general component) was introduced in the May 9, 1996 Budget Speech. In the March 31, 1998 Budget Speech, a second tax credit applying specifically to corporations whose activities consist chiefly in producing such titles was introduced.

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30 Concerning the improvement to the tax credit for on-the-job training periods announced in the March 11, 2003 Budget Speech, see subsection 3.2.1.

Essentially, the difference between the two tax credits lies in the fact that a corporation that wants to benefit from the general component must obtain the required certificates for each of the multimedia titles it produces, while a corporation that intends to claim the tax credit for specialized corporations must obtain the required certificates regarding all its activities. However, in either case, the certificates are issued to an eligible corporation by Investissement Québec.

❑ Reduction in the level of assistance

For the purposes of these two tax credits, the amount of assistance an eligible corporation may receive is determined according to the eligible labour expenditure of the corporation, to which a percentage is applied that varies depending on the category of multimedia titles the corporation produces.

Under existing rules, the amount of tax assistance granted to a producer of a multimedia title is determined according to the parameters described in the following table.

TABLE 2

CURRENT CATEGORIES AND LEVELS OF ASSISTANCE

Categories	Basic credit (depending on eligible labour expenditures)	Plus: Premium for French (if any)
Category 1		
Multimedia titles not produced to order and intended for commercialization	40%	10%
Category 2		
Other multimedia titles	35%	n.a.

More specifically, in the case of the general component, the rates are 50%, 40% or 35% depending on the category of the multimedia title regarding which a certificate is issued by Investissement Québec, and depending on whether or not there is a French version of the title.

In addition, in the case of the tax credit for specialized corporations, the rates are:

— 50% when the certificate certifies that at least 75% of the eligible multimedia titles produced by the corporation belong to category 1 and are available in French, or that at least 75% of its gross income stems from such titles;

— 40% when the certificate certifies that at least 75% of the eligible multimedia titles produced by the corporation belong to category 1 but are not available in French, or that at least 75% of its gross income stems from such titles;

— 35% when the certificate certifies that less than 75% of the eligible multimedia titles produced by the corporation belong to category 1, and that less than 75% of its gross income stems from such titles.

As a consequence of the 25% reduction in the level of tax assistance, the new parameters applicable on the basis of categories 1 and 2, which themselves remain unchanged, are as described in the following table.

TABLE 3

CATEGORIES AND NEW LEVELS OF ASSISTANCE

Categories	Basic credit (depending on eligible labour expenditures)	Plus: Premium for French (if any)
Category 1		
Multimedia titles not produced to order and intended for commercialization	30%	7.5%
Category 2		
Other multimedia titles	26.25 %	n.a.

In the case of the general component, these changes will apply in relation to eligible labour expenditures incurred regarding a multimedia title for which the main production work begins after the day of this Budget Speech.

In the case of the tax credit for specialized corporations, these changes will apply in relation to eligible labour expenditures incurred after the day of this Budget Speech.

❑ Notion of multimedia title production business

For the purposes of the general component, an "eligible corporation", for a taxation year, means, briefly, a corporation that, during the year, has an establishment in Québec and carries on a multimedia title production business there.

Since the fiscal policy that gave rise to this measure sought to encourage the production in Québec of multimedia titles, only the producer of such a title can qualify for the purposes of the tax credit.

The definition of an eligible corporation encompasses two very different facets that, in one case, are fiscal in nature and, in the other, sectoral in nature. The identification of the producing corporation, reflected in the requirement that a corporation carry on a multimedia title production business, is part of the latter segment.

To take advantage of the general component regarding a multimedia title, for a taxation year, an eligible corporation must obtain a certificate issued by Investissement Québec regarding such title.

Accordingly, as part of such a certification application by a corporation, Investissement Québec already assesses, within the limits of its field of action, the status of such corporation to prevent the corporation from claiming a tax credit from the MRQ regarding a title that it did not produce.

Investissement Québec has the expertise needed to effectively carry out such an assessment because, in particular, of the information on the nature of the corporation's activities it has as a front-line player.

For this reason, the responsibility for determining, at the time of its certification application regarding a multimedia title, whether a corporation is the producer of the title, will be assigned to Investissement Québec. Accordingly, the certificate regarding the title will only be issued to the corporation if it is the producer of such title. Consequently, the MRQ will no longer have to query the nature of the business carried on by the corporation claiming a tax credit.

More specifically, for the purposes of the general component, an eligible corporation, for a taxation year, will mean a corporation that has a certificate issued by Investissement Québec regarding an eligible multimedia title. Consequently, this definition will no longer refer to the carrying on, by the corporation, of a multimedia title production business.

In addition, for the purposes of the tax credit for specialized corporations, an eligible corporation, for a taxation year, means, briefly, a corporation that, during the year, has an establishment in Québec and carries on a multimedia title production business there. In addition, to claim the tax credit for a taxation year, the eligible corporation must hold a certificate issued by Investissement Québec, for the year, certifying that all or almost all its activities carried out in Québec consist in producing eligible multimedia titles.

For the same reasons as those described above regarding the general component concerning the analysis of the status of a corporation that must be carried out by Investissement Québec for the issuing of a certificate, an eligible corporation, for a taxation year, will mean a corporation that holds a certificate issued to it, for the year, by Investissement Québec. Consequently, this definition will no longer refer to the carrying on, by the corporation, of a multimedia title production business.

For greater clarity, the other eligibility criteria of a corporation currently stipulated for the purposes of the general component and the tax credit for specialized corporations will remain unchanged and, as they are of a fiscal nature, will remain under the competence of the MRQ, such as the presence of an establishment in Québec for instance.

These changes will apply in relation to a certificate issued to a corporation by Investissement Québec after the day of this Budget Speech.

1.3.5 Refundable tax credit for railway companies

On December 22, 1998, a refundable tax credit for railway companies was introduced to partially offset the tax burden imposed by the *Act respecting Municipal Taxation* on operators of railway companies, without affecting the finances of local governments.[31]

Briefly, a taxpayer may, under certain conditions, claim the tax credit if he or a partnership of which he is a member carries on a railway business in Québec.

This tax credit corresponds to 75% of the amount of eligible property taxes, for a taxation year, paid by the taxpayer or the partnership. More specifically, in the latter case, the tax credit each member may receive is equal to 75% of his share of the property taxes paid by the partnership.

As a consequence of the 25% reduction in the level of tax assistance, the legislation will be amended to reduce the rate of the tax credit to 56.25%.

This amendment will apply regarding eligible property taxes of a taxpayer for a taxation year, or of a partnership for a fiscal year, as the case may be, ending after the day of this Budget Speech.

31 Bulletin d'information 98-8.

However, for a taxation year or for a fiscal year, as the case may be, including that day, this amendment will apply regarding the eligible property taxes calculated in proportion to the number of days of such taxation year or such fiscal year, as the case may be, following that day.

1.3.6 Refundable tax credit for the construction or conversion of vessels

In general, the refundable tax credit for the construction or conversion of vessels corresponds, for a taxation year of a corporation that carries on a shipbuilding business in Québec, to an amount of up to 50% of qualified construction or conversion expenditures incurred during the year, in relation to the construction or conversion of an eligible vessel. However, the tax credit cannot exceed 25% of the cost of constructing or converting the vessel, incurred at the end of the year.

In addition, the rate of the tax credit as well as the ceiling based on the cost of construction or conversion vary depending on whether the vessel is a prototype or the first, second or third unit of the same series.

Furthermore, to be eligible for the tax credit, a vessel must be built or converted in Québec as part of a project for which the ministère du Développement économique et régional has issued a certificate to the effect that it will constitute a vessel with a gross tonnage of at least 50 tons.

The following table illustrates the various rates and terms and conditions of the tax credit currently applicable to eligible vessels.

TABLE 4

REFUNDABLE TAX CREDIT FOR THE CONSTRUCTION OR CONVERSION OF VESSELS
(before 25% reduction in rates)

Eligible vessel	Rate of the tax credit applicable to qualified construction or conversion expenditures	Limit tied to the cost of construction or conversion incurred at the end of the taxation year
Prototype	50%	25%
1st unit of a series	45%	22.5%
2nd unit of a series	40%	20%
3rd unit of a series	35%	17.5%
Additional vessels	n.a.	n.a.

In the context of the reduction in the level of tax assistance applied to certain measures, the rates of the refundable tax credit applicable to qualified construction or conversion expenditures as well as the limits based on the cost of construction or conversion will be reduced by 25%.

Accordingly, the new rates and limits are as shown in the following table.

TABLE 5

REFUNDABLE TAX CREDIT FOR THE CONSTRUCTION OR CONVERSION OF VESSELS
(after 25% reduction in rates)

Eligible vessel	Rate of the tax credit applicable to qualified construction or conversion expenditures	Limit tied to the cost of construction or conversion incurred at the end of the taxation year
Prototype	37.5%	18.75%
1st unit of a series	33.75%	16.875%
2nd unit of a series	30%	15%
3rd unit of a series	26.25%	13.125%
Additional vessels	n.a.	n.a.

These changes will apply regarding qualified construction or conversion expenditures incurred[32] after the day of this Budget Speech, unless such expenditures are attributable to an eligible vessel whose construction or conversion began no later than the day of this Budget Speech.

To that end, the construction or conversion of a vessel will be considered as having begun no later than the day of this Budget Speech if, no later than that day, either:

— a qualified construction or conversion expenditure was incurred in relation to the construction or conversion of such a vessel; or

— construction or conversion work was done on behalf of a qualified corporation under an eligible contract by a person or by a partnership with which the qualified corporation was at arm's length at the time the contract was concluded.

32 For the purposes of the application date of these changes, the notion of "qualified construction or conversion expenditures incurred" also covers a consideration paid that can be reasonably attributed to construction or conversion work done on behalf of a qualified corporation, pursuant to an eligible contract, by a person or partnership with which the qualified corporation was at arm's length at the time the contract was concluded.

1.3.7 Tax credit relating to resources

The implementation of a refundable tax credit for resources was announced as part of the March 29, 2001 Budget Speech. This tax credit is a more direct assistance mechanism that is to replace all the tax benefits relating to flow-through shares.

Accordingly, an eligible corporation that incurs eligible expenses during a taxation year may take advantage of a refundable tax credit for such year of up to 45% of the amount of such eligible expenses.

In addition, as part of the November 1, 2001 Budget Speech, the scope of this tax credit was broadened to include another type of natural resource, namely cut stone. In the case of this type of natural resource, a single rate of 20% is applicable.

Lastly, a temporary improvement to this tax credit was announced on August 20, 2002.[33] This improvement consists of the addition, until 2007 inclusive, of a non-refundable portion to the tax credit, bringing the rate of the tax credit to 60% in the case of eligible expenses incurred regarding mineral resources.

The rate of the tax credit a corporation may claim in relation to the eligible expenses it incurs varies according to a number of parameters, including the type of resource to which the eligible expenses are tied, the place where such expenses are incurred, as well as the type of corporation that incurs these expenses.

It should also be recalled that this tax credit is not taxable, either under the *Taxation Act* or under the *Mining Duties Act*. Accordingly, it need not be added in calculating income or in calculating the annual profit of an eligible corporation, and does not reduce the exploration expenses that can be so deducted by such a corporation.

33 Bulletin d'information 2002-9.

The following table illustrates the various rates currently applicable according to these various parameters.

TABLE 6

RATES OF THE TAX CREDIT RELATING TO RESOURCES BEFORE 25% REDUCTION
(as a percentage)

Tax credit regarding eligible expenses	Corporations not operating any mineral resource or oil or gas well			Other corporations		
	Refundable portion	Non-refundable portion	Total	Refundable portion	Non-refundable portion	Total
— relating to mineral resources						
– in the Near North or Far North	45	15	60	25	35	60
– elsewhere in Québec	40	20	60	20	40	60
— relating to oil and gas						
– in the Near North or Far North	45	n.a.	45	25	n.a.	25
– elsewhere in Québec	40	n.a.	40	20	n.a.	20
— relating to renewable energy and energy conservation	40	n.a.	40	40	n.a.	40
— relating to other natural resources (cut stone)	20	n.a.	20	20	n.a.	20

In the context of the reduction in the level of tax assistance applied to certain measures, the rates of the tax credit relating to resources will be reduced by 25%.

Accordingly, the new rates applicable are as shown in the following table.

TABLE 7

RATES OF THE TAX CREDIT RELATING TO RESOURCES AFTER 25% REDUCTION
(as a percentage)

	Corporations not operating any mineral resource or oil or gas well			Other corporations		
Tax credit regarding eligible expenses	**Refundable portion**	**Non-refundable portion**	**Total**	**Refundable portion**	**Non-refundable portion**	**Total**
— relating to mineral resources						
– in the Near North or Far North	33.75	11.25	45	18.75	26.25	45
– elsewhere in Québec	30	15	45	15	30	45
— relating to oil and gas						
– in the Near North or Far North	33.75	n.a.	33.75	18.75	n.a.	18.75
– elsewhere in Québec	30	n.a.	30	15	n.a.	15
— relating to renewable energy and energy conservation	30	n.a.	30	30	n.a.	30
— relating to other natural resources (cut stone)	15	n.a.	15	15	n.a.	15

Furthermore, for this reduction to be comparable with the reductions in the level of assistance applied under the flow-through share system,[34] the tax credit relating to resources will henceforth be taxable under both the *Taxation Act* and the *Mining Duties Act*. Accordingly, it must be added to the calculation of income or to the calculation of the annual profit of an eligible corporation, or be applied to reduce the exploration expenses that can be deducted by such a corporation.

This rate reduction as well as the taxation of the tax credit relating to resources will apply regarding eligible expenses incurred after the day of this Budget Speech.

34 In this regard, see section 1.3.16.

1.3.8 Refundable tax credit for the Vallée de l'aluminium

The refundable tax credit for the Vallée de l'aluminium was introduced in the March 14, 2000 Budget Speech.

Briefly, this tax credit, which has a 40% rate, is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative region of Saguenay—Lac-Saint-Jean, for five consecutive calendar years. However, to receive this tax credit, an eligible corporation must begin carrying on a certified business in this region no later than during calendar year 2004.

The tax legislation will be amended to reduce the rate of the refundable tax credit for the Vallée de l'aluminium to 30%.

This change will apply as of calendar year 2004. For calendar year 2003, the rate of the tax credit will be set at 35%.[35]

1.3.9 Refundable tax credit for Gaspésie and certain maritime regions of Québec

The refundable tax credit for Gaspésie and certain maritime regions of Québec was introduced on November 17, 2000.[36]

Briefly, this tax credit, which has a 40% rate, is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in certain maritime regions of Québec, namely Gaspésie—Îles-de-la-Madeleine, Côte-Nord, Bas-Saint-Laurent and the Matane RCM, for five consecutive calendar years. However, to receive this tax credit, an eligible corporation must begin carrying on a certified business in one of these regions no later than during calendar year 2004.

The tax legislation will be amended to reduce the rate of the refundable tax credit for Gaspésie and certain maritime regions of Québec to 30%.

This change will apply as of calendar year 2004. For calendar year 2003, the rate of the tax credit will be set at 35%.[37]

35 Other changes will be made to this fiscal measure. See subsections 1.8.5 and 2.2.

36 Bulletin d'information 2000-8.

37 Other changes will be made to this fiscal measure. See subsections 1.8.5 and 2.2.

1.3.10 Refundable tax credit for processing activities in resource regions

The refundable tax credit for processing activities in resource regions was introduced in the March 29, 2001 Budget Speech.

Briefly, this tax credit, which has a 40% rate, is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of Québec's resource regions for five consecutive calendar years. However, to receive this tax credit, an eligible corporation must begin carrying on a certified business in one of these regions no later than during calendar year 2004.

The tax legislation will be amended to reduce the rate of the refundable tax credit for processing activities in resource regions to 30%.

This change will apply as of calendar year 2004. For calendar year 2003, the rate of the tax credit will be set at 35%.[38]

1.3.11 Refundable tax credit relating to the declaration of tips

Various measures to improve and restore order to the situation regarding the declaration of tips in the restaurant and hotel sector were introduced in 1997.

To compensate for the increase in charges payable by an employer because of the control he must exercise regarding tips of his employees or the attribution of an amount of tips to his employees, a refundable tax credit was also introduced.

This tax credit, which, originally, was to have been available to employers until December 31, 2000, was extended for an indefinite period on June 29, 2000.[39]

Generally speaking, the tax credit a taxpayer may claim for a given taxation year is equal to all his qualified expenditures for the taxation year or, if the qualified expenditures are borne by a partnership, to the taxpayer's share of the qualified expenditures of the partnership for its fiscal year ending in his taxation year.

38 *Ibid.*

39 Bulletin d'information 2000-4

Essentially, the qualified expenditures regarding an employer for a taxation year or a fiscal year, as the case may be, correspond:

— to the portion of employer contributions which is attributable to tips – i.e. the contributions to the Québec Pension Plan, to the HSF, to employment insurance, to the Commission des normes du travail and to the Commission de la santé et de la sécurité du travail – and which was paid for the calendar year ending in the taxation year or the fiscal year, as the case may be;

— to the portion of the employee annual leave indemnity that is attributable to tips and that was received or is receivable for the taxation year or the fiscal year, as the case may be, as well as to the employer contributions payable in relation to such portion of the indemnity.

The tax assistance granted as a tax credit relating to the declaration of tips will be reduced by about 25% regarding taxation years of an employer – or his fiscal years if the employer is a partnership – ending after the day of this Budget Speech.

More specifically, for the purposes of calculating the expenditures qualifying for the tax credit regarding a taxation year of an employer – or his fiscal year if the employer is a partnership – that begins before January 1, 2004, the following rules will apply:

— if the taxation year or the fiscal year, as the case may be, includes December 31, 2003, the portion of employer contributions which is attributable to tips and that is paid for calendar year 2003 must be reduced to 87.5% of such portion;

— if the taxation year includes December 31, 2004, the portion of employer contributions that is attributable to tips and that is paid for calendar year 2004 must be reduced to 75% of such portion;[40]

— the amount equal to all of the portion of the employee annual leave indemnity attributable to tips and that was received or is receivable for the taxation year or the fiscal year, as the case may be, and of employer contributions payable in relation to such portion of the indemnity must be reduced by 25% in the proportion represented by the number of days of the taxation year or the fiscal year, as the case may be, that follow the day of this Budget Speech in relation to the total number of days of such taxation year or of such fiscal year, as the case may be.

40 This rule may apply to a corporation whose taxation year is longer than 52 weeks.

Regarding a taxation year of an employer – or a fiscal year if the employer is a partnership – that begins after December 31, 2003, the 25% reduction in tax assistance will apply to all expenditures qualifying for the tax credit.

Accordingly, a taxpayer who is required to pay qualified expenditures regarding a taxation year that begins after December 31, 2003 may, for such taxation year, claim a tax credit whose amount will be limited to 75% of all his qualified expenditures for the year.

Similarly, if a partnership is required to pay, regarding a fiscal year beginning after December 31, 2003, qualified expenditures, the amount of the tax credit each taxpayer who is a member of such partnership at the end of such fiscal year may claim, for his taxation year in which such fiscal year of the partnership ends, will be limited to 75% of an amount representing his share of all the qualified expenditures of the partnership for the fiscal year.

Furthermore, to reflect the reduction in tax assistance under the tax credit relating to the declaration of tips, correlative changes will be made to the special tax that applies in particular when a taxpayer or partnership receives a refund of an expenditure qualifying for such tax credit.

1.3.12 Five-year tax holiday for new corporations

Certain new corporations whose paid-up capital is no more than $15 million can, subject to the applicable conditions and limits, benefit from a tax holiday for the first five years of operation, commonly called the five-year tax holiday for new corporations.

This tax holiday covers the three major corporate tax bases, namely income tax, tax on capital and the employer contribution to the HSF.

The tax legislation will be amended to reduce the level of tax assistance thus granted to new corporations by 25% according to the terms and conditions described below.

❑ Income tax

Under the current rules, a corporation eligible for the tax holiday, for a taxation year, can benefit from an exemption from income tax, on its income for the year from an eligible business carried on in Canada, up to an amount of income of $200 000.

The income tax exemption will henceforth apply to 75% of eligible business income, and will be calculated on the first $200 000 of such income.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, if the taxation year of the eligible corporation includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following the day of this Budget Speech.

❑ Tax on capital

Under the current rules, a corporation eligible for the tax holiday, for a taxation year, may benefit from an exemption from the tax on capital. This exemption consists of a deduction in the calculation of paid-up capital, up to an amount of $3 million of paid-up capital.

The exemption from the tax on capital will henceforth apply to 75% of the amount of paid-up capital, and will be calculated on the first $3 million of such paid-up capital.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, if the taxation year of the eligible corporation includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following the day of this Budget Speech.

❑ Employer contribution to the HSF

Under the current rules, a corporation eligible for the tax holiday may benefit from an exemption regarding the employer contribution to the HSF, for salaries paid or deemed paid during a taxation year, up to an amount of $700 000 of salaries.

The exemption regarding the employer contribution to the HSF will henceforth apply to 75% of salaries paid or deemed paid during a taxation year and will be calculated on the first $700 000 of such salaries.

This change will apply in relation to salaries paid or deemed paid after the day of this Budget Speech.

1.3.13 Ten-year tax holiday for manufacturing SMEs in remote resource regions

Generally speaking, a corporation all of whose activities consist mainly in carrying on a manufacturing or processing business in one of the remote resource regions of Québec may claim, until December 31, 2010, a tax holiday in relation to such business regarding income tax, the tax on capital and the employer contribution to the HSF. The tax bases covered by this tax holiday are not capped.

More particularly, an eligible corporation may receive the full tax holiday for a taxation year if its paid-up capital applicable for such year, calculated on a consolidated basis, does not exceed $20 million. However, a partial tax holiday is granted, for a taxation year, if the paid-up capital applicable for such year, calculated on a consolidated basis, is between $20 million and $30 million.

The tax legislation will be amended to reduce the level of tax assistance thus granted to manufacturing SMEs in remote resource regions by 25% according to the terms and conditions described below.

❑ Income eligible for the income tax holiday

Under the current rules, an eligible corporation can benefit from the tax holiday on all its income from an eligible business. The tax holiday consists of a deduction in calculating taxable income.

The tax legislation will be amended so that the deduction an eligible corporation may claim, in calculating its taxable income, for a taxation year, is equal to 75% of the amount of its income from an eligible business.

Furthermore, if the paid-up capital of an eligible corporation applicable for a given taxation year is greater than $20 million but less than $30 million, the income from an eligible business regarding which a deduction may be claimed must be reduced linearly. The deduction will then be equal to the income from an eligible business multiplied by the result of the following formula:

$$75\% \times \left[1-\left[\frac{\text{(paid-up capital on a consolidated basis - \$20 million)}}{\$10 \text{ million}}\right]\right]$$

Accordingly, if the paid-up capital, calculated on a consolidated basis, is equal to or greater than $30 million, no deduction is allowed.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, if the taxation year of the eligible corporation includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following the day of this Budget Speech.

❑ Paid-up capital eligible for the tax holiday

An eligible corporation may receive, for each taxation year, a tax holiday with respect to the tax on capital. This holiday consists of a deduction in the calculation of paid-up capital, which corresponds, subject to the reductions indicated below, to the amount of such paid-up capital.

Furthermore, this deduction is reduced linearly when the applicable paid-up capital of a corporation for a taxation year, calculated on a consolidated basis,[41] is between $20 million and $30 million. No deduction is allowed if the paid-up capital applicable for such year, calculated on a consolidated basis, is greater than or equal to $30 million.

The tax legislation will be amended so that the deduction an eligible corporation may claim, in calculating its paid-up capital for a taxation year, is equal to 75% of the amount of such paid-up capital.

For greater clarity, if the paid-up capital of an eligible corporation applicable for a given taxation year is greater than $20 million but less than $30 million, the deduction in the calculation of paid-up capital the eligible corporation may claim, with respect to such given taxation year, will be reduced linearly, according to the formula indicated above. For instance, an eligible corporation whose paid-up capital applicable for a given taxation year is $28 million may claim a deduction, for such given taxation year, equal to 15% of its paid-up capital.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, if the taxation year of the eligible corporation includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following the day of this Budget Speech.

❑ Tax holiday regarding the employer contribution to the HSF

An eligible corporation may claim a tax holiday on the employer contribution to the HSF, for wages paid or deemed paid in the course of its tax holiday period. Subject to the restrictions indicated below, the tax holiday applies, for a given taxation year, to the total wages paid or deemed paid by an eligible corporation in the course of such given taxation year.

However, the exemption from the employer contribution to the HSF applicable to pay periods ending in a taxation year is reduced linearly if the paid-up capital of an eligible corporation applicable for a given taxation year is greater than $20 million but less than $30 million. No exemption is allowed if paid-up capital calculated on a consolidated basis is greater than or equal to $30 million.

41 The rules for the calculation of the paid-up capital of a corporation, on a consolidated basis, were specified in the March 29, 2001 Budget Speech. Briefly, the paid-up capital of an eligible corporation is calculated including, in particular, the paid-up capital attributable to associated corporations. In addition, the paid-up capital of a corporation, calculated on a consolidated basis, must be determined as though no corporation could claim a deduction in calculating its paid-up capital regarding the ten-year tax holiday for manufacturing SMEs in remote resource regions.

The tax legislation will be amended so that the tax holiday regarding the employer contribution to the HSF an eligible corporation may claim, for a taxation year, applies to 75% of the wages paid or deemed paid by an eligible corporation during such given taxation year.

For greater clarity, if the paid-up capital of an eligible corporation applicable for a given taxation year is greater than $20 million but less than $30 million, the exemption from the employer contribution to the HSF applicable to pay periods ending in such taxation year will be reduced linearly, according to the formula indicated above. For instance, if the paid-up capital applicable for such taxation year is $24 million, the exemption from the employer contribution to the HSF, applicable to such taxation year, will be reduced to 45%.

This change will apply regarding wages paid or deemed paid after the day of this Budget Speech.

1.3.14 International financial centres

Briefly, an international financial centre (IFC) is a business or part of a business established in Montréal all of whose activities pertain to qualified international financial transactions. An IFC business can be carried on by a corporation or a partnership, and the benefits stipulated in the legislation regarding the operations of an IFC include, in particular, an exemption from income tax, an exemption from the tax on capital and an exemption from the employer contribution to the HSF regarding the salaries of IFC employees.

In the context of the reduction of tax assistance to businesses, the value of the tax benefits granted to operators of IFCs will be reduced by 25%, according to the terms and conditions described below.

❑ Income tax – case of a corporation

Under existing rules, the operator of an IFC that is a corporation can deduct, in calculating its taxable income for a taxation year, an amount equal to its income for the year from the operation of an IFC.

The legislation will be amended such that the deduction that may be claimed by an operator of an IFC that is a corporation, in calculating its taxable income for a taxation year, is equal to 75% of the amount representing the income of such operator for the year from the operation of an IFC.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, for a taxation year that includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following that day.

❑ Income tax – case of a partnership

Under existing rules, when a partnership operates an IFC, the amount of the deduction that may be claimed by a member of the partnership who is either a natural person who is not a resident of Canada, or a corporation, is equal to 100% of the share of the partnership's income attributable to such member. If the member is a member other than a natural person who is not a resident of Canada or a corporation, the amount of the deduction is equal to 30% of such share.

In the specific case in which an IFC is operated by a partnership, the legislation will be amended such that the deduction that may be claimed by a member who is either a natural person who is not a resident of Canada, or a corporation, in calculating its taxable income for a taxation year, is equal to 75% of the share of the partnership's income attributable to such member.

In addition, the legislation will also be amended such that the deduction that may be claimed by a member of a partnership other than a natural person who is not a resident of Canada or a corporation, in calculating its taxable income for a taxation year, is equal to 22.5% of the share of the partnership's income attributable to such member.

These changes will apply regarding a fiscal year of a partnership ending after the day of this Budget Speech, in relation to a taxation year of a member of such a partnership that includes the date of the end of such fiscal year.

However, if the fiscal year of a partnership includes the day of this Budget Speech, this change will apply regarding the IFC income of a member, for the taxation year of such member that includes the date of the end of such fiscal year, in proportion to the number of days of such fiscal year that follow the day of this Budget Speech.

❑ Tax on capital

Under the current rules, a corporation operating an IFC, directly or through a partnership, can deduct, in calculating its paid-up capital for a taxation year, an amount equal to the portion of its paid-up capital attributable to the operations of an IFC.

The legislation will be amended such that the deduction that may be claimed by an operator of an IFC that is a corporation, in calculating its paid-up capital for a taxation year, is equal to 75% of the amount representing the paid-up capital of such operator of an IFC for the year, attributable to IFC operations.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, for a taxation year that includes the day of this Budget Speech, this change will apply in proportion to the number of days of such taxation year following that day.

❑ Employer contribution to the HSF

Under existing rules, the salary paid by an operator of an IFC to an employee of an IFC does not constitute salary subject to the employer contribution to the HSF otherwise stipulated by the legislation if it is attributable:

— either to a period covered by the eligibility certificate issued by the Minister of Finance regarding such employee;

— or, for any other period, to the duties of the employee with the operator that are devoted to IFC operations.

The legislation will be amended such that the exemption from the employer contribution to the HSF that may be claimed by an operator of an IFC applies to 75% of the salary an operator of an IFC pays to an IFC employee and that is attributable to the periods described above.

This change will apply regarding the salary paid or deemed paid to an IFC employee by an operator of an IFC after the day of this Budget Speech, in relation to a period or to a portion of a period following that day.

1.3.15 Deductions relating to a stock exchange or to a securities clearing-house corporation

Briefly, a corporation that, during a taxation year, carries on a stock exchange or a securities clearing-house corporation business in Québec, performs eligible activities in an establishment located within the territory of the City of Montréal, and more than half of whose salaries paid to employees of the corporation are paid to employees of an establishment located in Québec (eligible corporation), may benefit, until December 31, 2010, from tax measures to support the development of stock exchanges and securities clearing-houses.

Under existing rules, the benefits stipulated in the legislation regarding the operations of such an eligible corporation include an exemption from income tax, an exemption from the tax on capital and an exemption from the employer contribution to the HSF.

In the context of the reduction of tax assistance to businesses, the value of the tax benefits granted to such an eligible corporation will be reduced by 25%.

❑ Income tax and tax on capital

Under the current rules, an eligible corporation can deduct, in calculating its taxable income for a taxation year, an amount representing its income for the year from carrying out eligible activities, and, in calculating its paid-up capital for such year, an amount representing the paid-up capital relating to the eligible activities of the corporation.

The legislation will be amended such that the deduction an eligible corporation may claim, in calculating its taxable income for a taxation year, is equal to 75% of the amount representing the income of the eligible corporation for the year from carrying out eligible activities.

In addition, the legislation will also be amended so that the deduction an eligible corporation may claim, in calculating paid-up capital for a taxation year, is equal to 75% of the amount representing the paid-up capital of the corporation relating to its eligible activities.

This change will apply regarding a taxation year ending after the day of this Budget Speech. However, for a taxation year that includes the day of this Budget Speech, this amendment will apply in proportion to the number of days of such taxation year following that day.

❑ Employer contribution to the HSF

Under the current rules, an eligible corporation receives a full exemption from the employer contribution to the HSF, regarding the salary paid to an employee of the securities exchange or securities clearing-house corporation business it carries on within the territory of the City of Montréal.

The legislation will be amended such that the exemption from the employer contribution to the HSF an eligible corporation may claim applies to 75% of the salary paid to an employee of the securities exchange or securities clearing-house corporation business it carries on within the territory of the City of Montréal.

This change will apply regarding the salary paid or deemed paid to an employee of the securities exchange or securities clearing-house corporation business by an eligible corporation, after the day of this Budget Speech.

1.3.16 Tax benefits relating to flow-through shares

The implementation of a refundable tax credit for resources was announced as part of the March 29, 2001 Budget Speech. This tax credit is a more direct assistance mechanism that will replace all the tax benefits relating to flow-through shares. The flow-through share system may however continue to be used until the end of 2004, when it will be completely replaced by the new tax credit.

Briefly, Canadian exploration expenses and expenses relating to renewable energy and energy conservation in Canada, whether incurred inside or outside Québec, may be foregone in favour of an investor under the flow-through share system. In such a case, the investor can claim a number of tax benefits, in particular:

- a basic deduction of 100% of Canadian exploration expenses, Canadian development expenses and expenses incurred in respect of Canadian assets pertaining to oil and gas;
- if the investor is an individual, in addition to the basic deduction of 100%:
  - for mining exploration expenses incurred in Québec:
    - an initial additional deduction of 25%;
    - a second additional deduction of 50% for surface expenses;
  - for oil and gas exploration expenses incurred in Québec, additional deductions totaling 75%.

Furthermore, the existing rules of the flow-through share system allow an individual to claim, in certain cases, other benefits specific to Québec's tax system. These include the deduction for certain issue expenses and the additional capital gains exemption in respect of certain resource properties.

As indicated above, a reduction in the level of assistance will be applied to a set of fiscal measures. Accordingly, this reduction will apply to certain components of the flow-through share system. The measures concerned are the deductions an individual may claim, equal to 125% or 175%, as the case may be, regarding oil and gas exploration expenses incurred in Québec.

These reductions are comparable to those applied to the refundable tax credit relating to resources.[42] It should be recalled that the rates of this tax credit are set according to the maximum level of assistance offered by the flow-through share system, i.e. on the basis of the maximum deduction of 175% an individual can claim under the flow-through share system.

Consequently, the rates of the two additional deductions will be reduced proportionally to reduce the deduction by a total of 25%. Accordingly, the deductions an individual may claim will be equal to 110.42% or 131.25%, as the case may be, regarding oil and gas exploration expenses incurred in Québec.

42 In this regard, see subsection 1.3.7.

More specifically, these deductions will be allocated as follows:

— a basic deduction of 100% of Canadian exploration expenses, Canadian development expenses and expenses incurred in respect of Canadian assets pertaining to oil and gas;

— if the investor is an individual, in addition to the basic deduction of 100%:

  – for mining exploration expenses incurred in Québec:

    ° an initial additional deduction of 10.42%;

    ° a second additional deduction of 20.83% for surface expenses;

  – for oil and gas exploration expenses incurred in Québec, additional deductions totaling 31.25%.

As well, other changes will be made to this system regarding other components, i.e. the deduction for certain issue expenses and the additional capital gains exemption in respect of certain resource properties.[43]

These reductions in the rates of the additional deductions will apply regarding flow-through shares issued after the day of this Budget Speech. However, they will not apply regarding flow-through shares issued after that day if they are issued either following an investment made no later than the day of this Budget Speech or following an application for a final prospectus certificate or prospectus exemption, as the case may be, made no later than the day of this Budget Speech.

1.3.17 Deductions for securities options

Generally speaking, an employee who disposes of or transfers rights under an option to purchase securities of a corporation or a mutual fund trust granted to him by his employer, or who otherwise alienates these rights, is deemed to receive, because of his office or employment, a benefit equal to the difference between the proceeds of the alienation of these rights and the amount paid to acquire them. The value of this benefit must be included in the calculation of the employee's income for the taxation year during which the disposition or transfer of such rights occurs.

The employee who acquires securities under such an option is also deemed to receive, because of his office or employment, a benefit equal to the difference between the value of the securities at the time of their acquisition and the amount paid or to be paid to acquire such securities as well as the associated options.

43 In this regard, see subsection 1.5.5.

When a Canadian-controlled private corporation (CCPC) grants a stock option to an employee, the value of this benefit must be included in the calculation of the employee's income for the taxation year during which the shares were alienated.

In other instances, the value of the benefit must be included in the calculation of the employee's income for the taxation year during which the securities were acquired. However, under certain conditions, an employee can defer taxation of the value of the benefit resulting from the exercise of the option to the taxation year during which the securities are alienated or exchanged, up to a single annual limit of $100 000 based on the fair market value of the securities, other than the shares of a CCPC, at the time of the granting of the options.

In addition, under existing tax legislation, when an employee is required to include in the calculation of his income for a given taxation year, the value of a benefit he is deemed to have received regarding an option to purchase securities granted by his employer, such employee may, provided certain conditions are satisfied, deduct, in calculating its taxable income for the taxation year, an amount equal to half the value of such benefit.

Regarding any event, operation or circumstance relating to an option to purchase securities that takes place after the day of this Budget Speech and as a result of which an individual must include, in calculating his income from an office or employment for a given taxation year, the value of a benefit he is deemed to have received in such year, the amount that the individual may deduct for the given taxation year, in calculating his taxable income, will be limited to 37.5% of the value of such benefit.

1.3.18 Five-year tax holidays granted to certain foreign employees

Briefly, an individual who is not a resident of Canada, and who comes to Québec to work can receive a tax holiday on his salary, for a period of five years, if he is hired as:

— a post-doctoral research fellow employed by an eligible university entity or public research centre;

— a professor employed by a Québec university;

— a researcher employed by a person carrying on a business in Canada and that carries out R&D work in Québec;

— a specialized expert, particularly in the field of management of innovation activities, employed by a person carrying on a business in Canada and that carries out R&D work in Québec;

— a specialist employed by a corporation that carries out an innovative project in the biotechnology sector in a CDB.

In addition, an individual who is not a resident of Canada, and who comes to Québec to work may receive a tax holiday on all his income, for a period of five years, if he is hired as:

— a specialist in the field of international financial transactions working for a person who operates an IFC;

— an expert working for a corporation that operates a securities exchange or a securities clearing-house corporation.

These tax holidays consist of a deduction, in the calculation of the taxable income of the individual, corresponding to an amount equal to 100% of the salary or all the income of the individual, as the case may be.

As of the day following the day of this Budget Speech, the level of assistance of the tax holidays listed above will be reduced by 25%.

More specifically, the tax legislation will be amended so that an individual may deduct in the calculation of his taxable income an amount equal to 75% of his salary or of all his income, as the case may be, instead of 100%.

However, this reduction in assistance of the tax holidays listed above will not apply regarding an individual who concluded an employment contract no later than the day of this Budget Speech, and who commences employment no later than September 1, 2003. In this situation, an individual may continue to deduct in the calculation of his taxable income an amount equal to 100% of his salary or of all his income, as the case may be.

For greater clarity, this transition rule will apply solely regarding the job covered by the contract an individual concludes with an eligible employer, no later than the day of this Budget Speech, and regarding which the employee commences employment no later than September 1, 2003.

In addition, the other application details of these tax holidays will remain unchanged. In this regard, the current tax legislation stipulates that a renewed contract is deemed not to be a separate contract from the first employment contract an individual concluded with an eligible employer when he was not a resident of Canada.

There is also continuity in the employer-employee contractual relationship in certain corporate reorganizations. Such is the case when an employer continues to carry on a business following a merger or the winding-up of a corporation wholly owned by another corporation.

In such situations, an individual may continue to deduct in the calculation of his taxable income an amount equal to 100% of his salary or of all his income, as the case may be, provided such employer qualifies as an eligible employer for the purposes of the tax holiday claimed by the individual.

1.3.19 Tax holiday for seamen engaged in the international transportation of goods

Briefly, an individual who works as a seaman, who is engaged in the international transportation of goods, who holds an eligibility certificate issued by the Minister of Transport and who carries out his duties on a ship operated by an eligible shipowner,[44] may deduct in the calculation of his taxable income an amount equal to 100% of the remuneration received from this shipowner in relation to the period during which the seaman worked on such a ship. However, this period must be at least ten consecutive days.

As of the day following the day of this Budget Speech, the level of assistance of this tax holiday will be reduced by 25%.

More specifically, the tax legislation will be amended so that an individual may deduct in the calculation of his taxable income an amount equal to 75% of the remuneration he receives from an eligible shipowner, instead of 100%.

For 2003, this reduction will apply to the remuneration of an individual that is attributable to the period following the day of this Budget Speech, during which he is engaged in the international transportation of goods and carries out his duties on a ship operated by an eligible shipowner.

For greater clarity, the other application details of this tax holiday will remain unchanged.

1.3.20 Partial tax holiday for IFC employees

Briefly, an IFC employee, other than a foreign specialist, who, during a taxation year, devotes more than 75% of his duties to operations of the IFC, may claim, in calculating his taxable income for such taxation year, a deduction equal to 50% of the income from his employment with the IFC for the year, for the period covered by the eligibility certificate issued in respect of the employee by the Minister of Finance.

As part of the tightening measures applied to Québec's tax system, this deduction will be reduced by 25%, bringing the rate of the deduction to 37.5%.

More specifically, the legislation will be amended so that an IFC employee, other than a foreign specialist, who holds a job with a corporation or a partnership operating an IFC, may deduct, in calculating its taxable income for a taxation year, an amount equal to 37.5% of his salary for the year from his job with the IFC, and attributable to a period following the day of this Budget Speech.

44 An eligible shipowner means, in particular, a person who resides in Canada as well as a corporation that is a foreign subsidiary of such a person.

For greater clarity, the income of an IFC employee from his job with a corporation or a partnership operating an IFC and relating to a period ending no later than the day of this Budget Speech, will give rise to a deduction at the rate of 50% even though it was received by the IFC employee after the day of this Budget Speech.

1.4 Measures not renewed and reduction in the level of assistance

To keep the overall budget balanced, the government recently undertook to review all government assistance programs. In particular, this review will lead to initiatives tightening most fiscal measures.

Various temporary fiscal measures introduced in recent years will soon expire. These measures, described below, concern the financial sector and the horse racing industry.

Because they will expire shortly and to complement the tightening measures already announced in this Budget Speech, these temporary fiscal measures will not be renewed. In addition, the deadlines and level of assistance, if any, for the purposes of certain measures relating to the financial sector, will be reduced.

1.4.1 Refundable tax credit for training specialized IFC employees

Briefly, the refundable tax credit for training specialized IFC employees is equal to 40% of the salary an IFC pays to a financial specialist with less than four years of experience. Under the existing legislation, this refundable tax credit, which can reach $30 000 per year, applies for a period of three years in relation to the salary paid to such an employee regarding whom the IFC operator holds an eligibility certificate issued by the Minister of Finance before July 1, 2003.

❑ Non-renewal of the tax credit

The privileges associated with the eligibility certificates already issued will be maintained according to the terms and conditions described below, but this measure will not be renewed. Furthermore, its termination will be moved forward to the day of this Budget Speech. Accordingly, the Minister of Finance will cease to issue eligibility certificates in relation to applications submitted as of the day of this Budget Speech.

For greater clarity, to be considered, an eligibility certificate application must be submitted in writing no later than the day preceding this Budget Speech, and be accompanied by all the documents required for its analysis.

❑ Reduction of the tax credit

In accordance with the government's determination to reduce the value of tax assistance measures granted to businesses by 25%, the rate of the refundable tax credit for training specialized IFC employees will be reduced from 40% to 30%.

More specifically, the legislation will be amended so that the refundable tax credit for training specialized IFC employees is equal to 30% of the eligible salary paid by an IFC operator to an eligible specialized employee. Consequently, the maximum amount that this refundable tax credit may henceforth reach will be $22 500 on an annual basis.

This change will apply in relation to the eligible salary incurred by an IFC operator for an eligible specialized employee after the day of this Budget Speech and in relation to a period covered by the annual certificate issued to the IFC operator by the Minister of Finance regarding such eligible specialized employee.

1.4.2 Refundable tax credit for fund managers

Briefly, the refundable tax credit for fund managers is equal to 40% of the salary a portfolio management company pays to a portfolio manager with less than four years of experience. Under the existing legislation, this refundable tax credit, which can reach $30 000 per year, applies for a period of three years in relation to the salary paid to such a fund manager regarding whom the portfolio management company holds an eligibility certificate issued by the Minister of Finance before July 1, 2003.

❑ Non-renewal of the tax credit

The privileges associated with the eligibility certificates already issued will be maintained according to the terms and conditions described below, but this measure will not be renewed. Furthermore, its termination will be moved forward to the day of this Budget Speech. Accordingly, the Minister of Finance will cease to issue eligibility certificates in relation to applications submitted as of the day of this Budget Speech.

For greater clarity, to be considered, an eligibility certificate application must be submitted in writing no later than the day preceding this Budget Speech, and be accompanied by all the documents required for its analysis.

❑ Reduction of the tax credit

In accordance with the government's determination to reduce the value of tax assistance measures granted to businesses by 25%, the rate of the refundable tax credit for fund managers will be reduced from 40% to 30%.

More specifically, the legislation will be amended so that the refundable tax credit for fund managers is equal to 30% of the eligible salary paid by an eligible corporation to an eligible fund manager. Consequently, the maximum amount that this refundable tax credit may henceforth reach will be $22 500 on an annual basis.

This change will apply in relation to the eligible salary incurred by an eligible corporation for an eligible fund manager after the day of this Budget Speech and in relation to a period covered by the annual certificate issued to the eligible corporation by the Minister of Finance regarding such eligible fund manager.

1.4.3 Refundable tax credit for financial analysts specializing in the securities of Québec corporations or in financial derivatives

Generally speaking, this refundable tax credit has two components, namely a component relating to analysts of securities of Québec corporations and a second component relating to analysts of financial derivatives.

Essentially, the tax credit is equal to 40% of the salary paid by an employer to such an analyst with less than four years of experience in his field of expertise. Under the existing legislation, this refundable tax credit, which can reach $30 000 per year, applies for a period of three years regarding the salary paid to such analyst regarding whom the employer holds an eligibility certificate issued by the Minister of Finance before July 1, 2003.

❑ Non-renewal of the tax credit

The privileges associated with the eligibility certificates already issued will be maintained according to the terms and conditions described below, but this measure will not be renewed. Furthermore, its termination will be moved forward to the day of this Budget Speech. Accordingly, the Minister of Finance will cease to issue eligibility certificates in relation to applications submitted as of the day of this Budget Speech.

For greater clarity, to be considered, an eligibility certificate application must be submitted in writing no later than the day preceding this Budget Speech, and be accompanied by all the documents required for its analysis.

❑ Reduction of the tax credit

In accordance with the government's determination to reduce the value of tax assistance measures granted to businesses by 25%, the rate of the refundable tax credit for financial analysts specializing in the securities of Québec corporations or in financial derivatives will be reduced from 40% to 30%.

More specifically, the legislation will be amended so that the refundable tax credit for financial analysts specializing in the securities of Québec corporations or in financial derivatives is equal to 30% of the eligible salary paid by a corporation to a financial analyst specializing in the securities of Québec corporations or in financial derivatives, as the case may be. Consequently, the maximum amount that this refundable tax credit may henceforth reach will be $22 500 on an annual basis.

This change will apply in relation to the eligible salary incurred by a corporation for a financial analyst specializing in the securities of Québec corporations or in financial derivatives, as the case may be, after the day of this Budget Speech and in relation to a period covered by the annual certificate issued to the corporation by the Minister of Finance regarding such eligible specialized financial analyst.

1.4.4 Refundable tax credit for communications between corporations and investors

Briefly, the refundable tax credit for communications between corporations and investors is equal to 40% of expenditures incurred by a corporation in relation to a road show. Under the existing legislation, this refundable tax credit, which can reach $40 000 per year, applies regarding expenditures of a corporation incurred before July 1, 2003, in relation to a road show regarding which the corporation holds an eligibility certificate issued by the Minister of Finance.

Once it expires on July 1, 2003, this measure will not be renewed.

1.4.5 Refundable tax credit fostering the participation of investment dealers on the Nasdaq stock market

Briefly, this refundable tax credit has four components, the first covering administrative costs, the second covering the acquisition and leasing of technological equipment, the third covering the hiring and training of personnel, and lastly, the fourth covering the costs relating to the installation and maintenance of a transaction management system.

Essentially, the tax credit is equal to 50% of the amount of expenditures incurred by a securities dealer authorized to deal in securities listed on the Nasdaq stock market as an order entry broker or market maker. Under the existing legislation, this refundable tax credit, which can reach a cumulative maximum, for the entire length of the tax credit, of $25 000 for the first component, $100 000 for the second, $50 000 for the third, and $300 000 for the fourth, applies regarding expenditures of an investment dealer, that the latter incurs in relation to its brokerage activities on the Nasdaq stock market, during the period beginning April 27, 2000 and, with some exceptions,[45] ending December 31, 2003.

When it expires on December 31, 2003, this measure will not be renewed.

1.4.6 Deduction relating to an independent trader of eligible financial derivatives

Briefly, the deduction relating to an independent trader of eligible financial derivatives (FD) consists of a deduction in the calculation of the taxable income of an individual who, for a taxation year, carries on a business in Québec as an independent FD trader and who holds an eligibility certificate issued by the Minister of Finance.

Essentially, the amount of the deduction an independent FD trader may claim is equivalent to the portion of such trader's income attributable to trading activities carried out through the electronic trading platform of the Montréal Exchange covering FDs listed electronically with the exchange. However, this deduction is limited to an amount of $200 000 per year and a cumulative maximum of $600 000. Under the existing legislation, this measure will end on July 1, 2004.

When it expires on July 1, 2004, this measure will not be renewed.

1.4.7 Refundable tax credit for the maintenance of a racehorse

The refundable tax credit for the maintenance of a racehorse covers certain expenditures incurred to raise young horses for racing and is intended for taxpayers who own them.

45 In the case of leasing of electronic communications equipment, some rent expenditures may constitute an eligible expenditure for the purposes of the tax credit for a period of 730 days following the conclusion of a contract concluded before January 1, 2004.

Eligible expenditures, which must be incurred after June 29, 2000 but before January 1, 2004, are limited to an annual amount of $12 000 per eligible animal. The rate of the tax credit, applicable to eligible expenditures, is 30%, for a maximum tax credit of $3 600 per eligible animal per year.

When it expires on January 1, 2004, this fiscal measure will not be renewed.

1.5 Moratorium concerning certain fiscal measures

As part of the overall review of the role of the state and the desirable level of its intervention in taxpayers' business decisions, particularly regarding investment, the relevance of certain tax regimes and the merits of certain fiscal measures will be assessed over the coming months.

More specifically, the ministère des Finances will re-examine the efficiency and utility of certain tax regimes and certain fiscal measures. In particular, this will apply to the tax holiday for major investment projects, the Québec Stock Savings Plan, the Québec Business Investment Companies system, the Cooperative Investment Plan and certain measures specific to Québec's flow-through share system.

The decision whether or not to maintain these fiscal measures and these tax regimes will be announced once the review is completed. However, during this review period, a moratorium will be applied to all these measures, in accordance with the terms and conditions described below.

1.5.1 Tax holiday for major investment projects

A tax holiday lasting ten years regarding major investment projects was introduced in the March 14, 2000 Budget Speech.

Briefly, an eligible taxpayer who carries out a major investment project in Québec after March 14, 2000 may, under certain conditions, benefit from a tax holiday for all or part of a calendar year. However, to obtain the tax holiday, an initial eligibility certificate as well as annual eligibility certificates must be obtained from the Minister of Finance.

Essentially, the tax holiday enables eligible taxpayers that carry out a major investment project in Québec to benefit, for a period of ten years beginning on the starting date of the operation of the business relating to the major investment project, from an exemption from income tax, an exemption from the tax on capital and an exemption from the employer contribution to the HSF relating to the business carried on following the completion of the major investment project.

In addition, to maintain a direct link between the purpose of the tax holiday and the reason for which it is granted, namely the undertaking of a major investment project by a taxpayer, the tax holiday is granted for an investment project carried out by the taxpayer, i.e., more specifically, as if the activity carried on after the project is completed constitutes the carrying on of a separate business by a separate person.

To take advantage of the tax holiday, some criteria must be satisfied, in particular concerning the sector of activity in which the major investment project is carried out and the minimum thresholds that enable it to qualify as a major investment project.

❑ Review of this fiscal measure

As indicated above, a moratorium will be applied to certain fiscal measures.

This moratorium will apply to the tax holiday regarding major investment projects.

Accordingly, no new applications will be accepted by the ministère des Finances during the review period of this fiscal measure.

❑ Application date

The moratorium will apply to investment projects for which no written application to obtain this tax holiday has been submitted to the ministère des Finances before the day of this Budget Speech.

For greater clarity, the moratorium will not affect the eligibility for this tax holiday of major investment projects for which an initial eligibility certificate has already been obtained or for which a detailed application to obtain the tax holiday was submitted to the ministère des Finances before the day of this Budget Speech.

To that end, the ministère des Finances will consider that a detailed application to obtain the tax holiday for an investment project has been submitted to it before the day of this Budget Speech if such application includes all the documents necessary for the analysis of the file.

1.5.2 Québec Stock Savings Plan

The Québec Stock Savings Plan (QSSP) enables an individual to deduct, in calculating his taxable income for a taxation year, the cost of shares he acquired under the plan no later than December 31 of the year.

Briefly, the QSSP has three components, namely:

— an initial component whereby an individual may deduct 100% of the cost of acquiring a common share, or 50% of the cost of an eligible convertible security, issued by a listed growth company with assets of less than $350 million in conjunction with a distribution of shares to the public in accordance with the rules governing the QSSP;

— a second component that enables an individual to deduct 150% of the acquisition cost of a share issued by a regional venture capital corporation (or 75% of the cost of an eligible convertible security);

— a third component that enables an individual to claim a deduction, whose amount varies, for the acquisition of securities in a QSSP investment fund, based on the fund's commitment to acquire shares of growth companies during the following year.

However, the amount of the deduction may not exceed 10% of the taxpayer's total income for the year.

The relevance of the QSSP in its current form will be examined. During this examination, a moratorium will apply and no issue of securities under this plan will be admitted.

More specifically, the moratorium will apply in relation to a public issue of shares, a public issue of securities, an issue of non-guaranteed convertible securities or an issue of convertible securities for which an application for a receipt of the final prospectus or an application for an exemption from filing a prospectus, as the case may be, is submitted to the Commission des valeurs mobilières du Québec after the day of this Budget Speech.

However, in the specific case of an operation carried out in accordance with the rules stipulated in sections 43 and 51 of the *Securities Act*, which govern, respectively, the placement of securities with a sophisticated purchaser and the private placement of blocks of more than $150 000, the moratorium will apply in relation to a placement made after the day of this Budget Speech.

1.5.3 Québec Business Investment Companies

Generally speaking, a Québec Business Investment Company (QBIC) is a private corporation that collects funds from individuals and whose activities consist mainly in acquiring and holding common shares of the capital stock of private small and medium-size corporations (eligible corporation). Briefly, an eligible corporation means a Canadian-controlled private corporation with assets of no more than $50 million, operating in an eligible activity sector stipulated in the Regulation respecting Québec Business Investment Companies.

The investment in an eligible corporation (qualified investment) is the element that triggers the tax benefits granted to the shareholders of a QBIC and it must be validated by Investissement Québec.

The deduction allowed a QBIC shareholder is equal to 150% of the value of the shareholder's interest in the qualified investment when the assets of the eligible corporation are less than $25 million (or 100% in the case of an eligible convertible preferred share), and 125% of such value when the assets of the eligible corporation are between $25 million and $50 million (or 75% in the case of an eligible convertible preferred share).

However, an individual's deduction in this regard, for a taxation year, cannot exceed 30% of his total income for the year.

❑ Moratorium

The relevance of the QBIC system, as it currently stands, will be examined. During this examination, a moratorium will apply and no investment in an eligible corporation will enable an individual to claim a deduction in relation to an investment in a QBIC.

More specifically, the moratorium will apply in relation to an investment made by a QBIC after the day of this Budget Speech.

❑ Technical adjustment concerning convertible shares

A change to the QBIC regime was announced on July 11, 2002 introducing a new category of eligible investment.[46] Briefly, this addition of a new category of eligible investment sought to recognize certain special circumstances that tended to reduce investors' interest in the QBIC regime.

More specifically, these special circumstances obtained when, once an eligible corporation reached a more advanced stage of development than at the time of a previous QBIC issue, it had to open its capital stock to outside venture capital investors other than the QBIC and, according to current conditions on capital markets, the financing vehicle normally preferred by this type of investor consists of convertible preferred shares that are redeemable under certain conditions and enjoy priority over prior financing rounds of the eligible corporation in the event of winding-up.

46 Bulletin d'information 2002-8.

Noting that one of the consequences of such financing rounds for the initial investors in the eligible corporation, including the QBIC, was the dilution of their interest and relegation to second rank in the event of the winding-up of the eligible corporation, it was then announced that the legislation would be amended so that the investment made by a QBIC in an eligible corporation consisting of convertible preferred shares acquired as first purchaser, is recognized as an eligible investment for the purposes of the QBIC system. However, it was specified that the tax benefits regarding such an eligible investment would be reduced by 50 points compared with those applicable to an eligible investment consisting of common shares, thus bringing the rate of the deduction regarding such investment to 75% or 100%, as the case may be.

Essentially, the objective of the fiscal policy with respect to the eligibility of such investments consisted, on the one hand, in preventing this type of second round of financing from causing a decline in interest for the QBIC system and, furthermore, facilitating the participation of a QBIC in a new round of financing by an eligible corporation in which the QBIC already has an eligible investment.

In addition, regarding the rate of deduction granted investors in a QBIC in relation to such an eligible investment, the fiscal policy was designed to recognize the fact that, because of the various privileges convertible preferred shares confer on their holders, including priority over earlier rounds of financing of the eligible corporation in the event of winding-up, the financial risk regarding such a eligible investment was lower than that assumed by common shareholders of the eligible corporation.

At the technical level, in addition to banning any privilege as to dividends, other than in the event of winding-up of the eligible corporation, the notion of convertible preferred share in the context of an eligible investment was defined as being, in particular, a preferred share within the meaning of the *Taxation Act*. Although the definition sought to allow flexibility as to the features relating to convertible preferred shares that can be recognized as part of such an investment, while ensuring the integrity of the QBIC system, it appears that the reference to a "preferred share" within the meaning of the *Taxation Act*, in the special context of convertible shares covered by the measure, generates technical problems.

Accordingly, the legislation will be amended to withdraw the definition of the expression "convertible preferred share" and replace it with the following definition:

> **convertible share**: A convertible share will mean a share convertible into a common share with full voting rights of the corporation and, if applicable, that can be redeemed by the issuing corporation, but conferring no privilege, other than in the case of the winding-up of the eligible corporation, as to dividends compared to common shares.

For greater clarity, as a consequence of this change, any reference to the expression "convertible preferred share" in the announcement of July 11, 2002 as well as in any text arising from such announcement, must be replaced with a reference to the expression "convertible share".

In addition, it was also stipulated that, even if the stated criteria were satisfied, Investissement Québec could refuse to validate the investment made by a QBIC if, in its view, the attributes of the convertible preferred shares failed to satisfy fiscal policy objectives. For greater clarity, this power of Investissement Québec will be maintained.

Lastly, in the interests of technical harmonization of the rules applicable to the QBIC the legislation will also be amended so that the definition of the expression "common share with full voting rights" specifies that, regarding an eligible corporation, this category of shares excludes a share that enjoys a conversion privilege.

These changes will apply in relation to a convertible share issued by an eligible corporation after July 11, 2002.

1.5.4 Cooperative Investment Plan

The Cooperative Investment Plan (CIP) is designed to encourage the growth of cooperatives by granting a tax benefit to members and workers who acquire preferred units issued by an eligible cooperative – essentially, a work cooperative or a cooperative at least 90% of whose activities consist in supplying goods or services that enable the persons who do business with the cooperative to earn business income.

This tax benefit, consisting of a deduction in the calculation of taxable income, depends on the adjusted cost of the preferred unit acquired from the cooperative.

When such a unit is acquired under an investment program for workers, this adjusted cost is 150% of the cost of acquisition in the case of a small or medium-size cooperative and 125% in other cases. However, if the unit is not acquired under such a program, the adjusted cost corresponds to the cost of acquisition and reaches 125% of such cost if the unit is issued by a small or medium-size cooperative.

The relevance of the CIP as it currently stands will be examined over the coming months. As of the day following the day of this Budget Speech, and throughout this examination, no cooperative, other than a work cooperative, will be issued an eligibility certificate for the CIP authorizing it to issue preferred units eligible for this plan.

In addition, the authorization to issue preferred units eligible for the CIP that an eligible cooperative, other than a work cooperative, holds on the day of this Budget Speech, will, subject to the revocation of the eligibility certificate, be restricted solely to units that must be issued to satisfy a commitment concluded in writing no later than the day of this Budget Speech with an eligible worker as part of an investment program for workers.

Accordingly, preferred units acquired by a taxpayer after the day of this Budget Speech can give rise to a tax benefit solely if they are acquired from a work cooperative holding a CIP eligibility certificate or from any other cooperative holding such a certificate provided, in the latter case, that such units were acquired as part of an investment program for workers in accordance with a written agreement concluded no later than the day of this Budget Speech between the taxpayer and the cooperative.

Furthermore, the tax benefit relating to the acquisition, after the day of this Budget Speech, of preferred units eligible for the CIP will be reduced by 25%.

More specifically, for the purposes of the deduction relating to the CIP, the adjusted cost of a preferred unit acquired after that day will be equal:

— to 112.5% of the acquisition cost in the case of a unit acquired from a small or medium-size cooperative under an investment program for workers;

— to 93.75% of the acquisition cost in the case of a unit acquired from a small or medium-size cooperative, other than under an investment program for workers;

— to 93.75% of the acquisition cost in the case of a unit acquired under an investment program for workers of a cooperative, other than a cooperative covered by the preceding points;

— to 75% of the acquisition cost in other cases.

1.5.5 Measures specific to Québec's flow-through share system

As mentioned above, the flow-through share system can continue to be used until the end of 2004,[47] when it will be fully replaced by the tax credit relating to resources.

Furthermore, an investor can, in addition to the other benefits tied to the acquisition of flow-through shares, receive special treatment under Québec's tax system, in particular a deduction regarding certain issue expenses and an additional capital gains exemption for certain assets relative to resources.

47 However, see the changes made to this system in subsection 1.3.16.

❑ Deduction regarding certain issue expenses

Under the general rules governing flow-through share issue expenses, such expenses must be deducted in the calculation of the issuing company's income over a period of five years.

However, provided that the company waives the deduction of issue expenses incurred at this time and that the expenses pertain to shares or securities the proceeds from which will be used to cover exploration costs in Québec, an additional deduction is granted to the purchasers of flow-through shares in an amount equivalent to the lesser of the issue expenses actually incurred by the company and 15% of the proceeds of the flow-through share issue.

❑ Additional capital gains exemption for certain assets relative to resources

The capital gain realized by a taxpayer who disposes of an asset is generally equal to the difference between the price obtained when the asset is sold and the price paid when it was acquired.

When the asset is a flow-through share, the price paid to acquire the share is deemed to be null, given that such a share usually gives rise to substantial tax deductions.

Consequently, the full amount received when such a share is sold represents a capital gain, independently of the price actually paid at the time of acquisition.

However, insofar as the owner of the flow-through share obtained the tax deductions because exploration costs were incurred in Québec, the capital gain that would be realized, up to the purchase price of the share, may be exempt by using this additional capital gains exemption. Briefly, this additional capital gains exemption is based on a historical expenditure account mechanism.

❑ Moratorium

As indicated above, a moratorium will apply to a number of fiscal measures. It will be applied to the deduction for certain issue expenses and to the additional capital gains exemption in respect of certain resource properties.

Accordingly, deductions relating to flow-through share issue expenses may no longer be foregone in favour of an investor. Regarding the additional capital gains exemption in respect of certain resource properties, no amount may be added to the historical account for flow-through shares acquired and covered by this moratorium, and no share covered by this moratorium may give rise to this additional capital gains exemption.

The moratorium will apply regarding flow-through shares issued after the day of this Budget Speech. However, it will not apply regarding flow-through shares issued after that day if they are issued either following a private placement made no later than the day of this Budget Speech, or following an application for receipt of the final prospectus or prospectus filing exemption, as the case may be, made no later than the day of this Budget Speech.

1.6 Measures concerning scientific research and experimental development

1.6.1 Reduction of 12,5% in the level of assistance

A person who carries on a business in Canada and carries out R&D in Québec or has R&D carried out on his behalf in Québec, under a contract, can claim various refundable tax credits.

The first refundable tax credit, commonly known as the tax credit for R&D salaries and wages, applies, in particular, to the salary a person pays his employees when he himself carries out his R&D work in Québec, or to half the amount of the research contract, when the R&D work is entrusted to a subcontractor at arm's length with such person. The rate of this refundable tax credit is 20%, but it can vary from 20% to 40% in the case of a Canadian-controlled corporation.[48]

The second refundable tax credit, commonly known as the university R&D tax credit, applies, in particular, to 80% of the amount of a research contract when the R&D work is subcontracted to an eligible university entity, an eligible public research centre or to an eligible research consortium with which the person who entrusted the R&D work is at arm's length. The rate of this tax credit is 40%.

The third refundable tax credit concerns pre-competitive research, catalyst projects and environmental technology innovation projects. This refundable tax credit applies, in particular regarding pre-competitive research, to R&D work that a number of persons agree to carry out in Québec or have carried out for their benefit in Québec under a research contract. The rate of this tax credit is 40%.

The fourth refundable tax credit concerns contributions paid to an eligible research consortium. Essentially, this refundable tax credit applies to the contributions a person pays to an eligible research consortium that can reasonably be considered to relate to R&D work carried out by the consortium in relation with a business of such person. The rate of this tax credit is 40%.

48 Briefly, a Canadian-controlled corporation whose assets, including the assets of associated corporations, vary between $25 million and $50 million for the preceding fiscal year, and the higher rate applies solely to the first $2 million of R&D expenditures.

In the context of the review of the amount of tax assistance of all preferential measures regarding businesses, the rate of refundable tax credits for R&D will be reduced.

However, since it is important to increase R&D activity in Québec, and in view of the fact that R&D expenditures are upstream of revenue-generating activities, carry a high cost and, by definition, do not always lead to results that can be commercialized, the rate of each refundable tax credit for R&D will be reduced by 12.5% rather than 25%.

More specifically, the tax legislation will be amended to reduce the tax credit for R&D salaries and wages to 17.5% and reduce the university R&D tax credit, the tax credit concerning pre-competitive research, catalyst projects or environmental technology innovation projects as well as the tax credit concerning contributions to an eligible research consortium to 35%.

In the case of the tax credit for R&D salaries and wages, regarding which a Canadian-controlled corporation can benefit from a rate varying from 20% to 40% depending on the amount of its assets, this rate will be reduced to a rate varying from 17.5% to 35%, according to the same terms and conditions as those that currently apply. The following table illustrates the effect of this reduction.

TABLE 8

ILLUSTRATION OF THE GRADUAL REDUCTION OF THE HIGHER RATE DEPENDING ON THE AMOUNT OF ASSETS

Assets of the corporation (Millions of dollars)	Current rate (%)	New rate (%)
25 or less	40	35
30	36	31.5
35	32	28
37.5	30	26.25
40	28	24.5
45	24	21
50	20	17.5

This change will apply to R&D expenditures incurred after the day of this Budget Speech, regarding R&D work carried out after that day, in the course of a contract concluded after that day if applicable.

1.6.2 Elimination of the refundable tax credit based on the increase in R&D expenditures

A corporation which, for a given taxation year, is entitled to the tax credit for R&D salaries and wages at a rate of 35%[49], that is, in brief, a corporation under Canadian control with assets of less than $25 million, may also claim, for that year, an additional refundable tax credit in respect of its R&D expenditure.

Generally speaking, this additional refundable tax credit is based on the increase in all R&D expenditures used to calculate refundable R&D tax credits and incurred by a corporation in a given taxation year, as compared to the average of all such expenditures incurred by the corporation in the course of its three preceding taxation years.

This additional refundable tax credit of 15% was introduced on the occasion of the Budget Speech delivered on March 9, 1999. It is temporary and applies solely to the taxation years of a corporation beginning before July 1, 2004.

The tax legislation will be amended so that this temporary period ends before the date initially planned. More specifically, this additional refundable tax credit will no longer apply to the taxation years of a corporation that begin no later than the day of this Budget Speech.

For greater clarity, the application terms and conditions of this tax credit will remain unchanged, and will continue to apply to the taxation years of a corporation that begin no later than the day of this Budget Speech.

1.6.3 Reminder of and changes to the contribution rules respecting refundable tax credits for scientific research and experimental development

The Québec tax system comprises a number of measures designed to bolster research and development (R&D) activities carried out in Québec. The refundable tax credits granted by the government in this field are the focal point of these incentives.

The aim of these tax credits is to encourage people to opt for Québec as a location for carrying out their R&D work. Accordingly, to be entitled to these tax credits, a person who carries on a business in Canada may carry out R&D activities in Québec himself, or entrust them to a subcontractor who will carry them out in Québec on that person's behalf.

49 The rate of the refundable tax credit for R&D salaries and wages referred to in this text takes into account the 12.5% reduction in this rate announced in this Budget Speech.

Moreover, since Québec's industrial structure is largely composed of SMEs which, in many cases, do not have sufficient human or material resources to carry out R&D activities in full, collaboration between persons who carry on businesses and the university sector is fostered thanks to more generous tax assistance, i.e. the refundable university R&D tax credit, in order to boost the calibre of industrial research in Québec.

The tax assistance granted to a person who carries on a business in Canada and who subcontracts his R&D activities to a university entity, a public research centre or a research consortium (prescribed research entity) is greater than if that person carried out his own R&D activities or entrusted them to another subcontractor.

As for the refundable tax credit for R&D salaries and wages, it covers, in particular, the salary paid by a person to his employees, where that person carries out his own R&D in Québec, or half the amount of the research contract, where the R&D activities are entrusted to a subcontractor who is at arm's length with that person. In both cases, the rate of the tax credit is set at 17.5%,[50] but may vary between 17.5% and 35% in the case of a corporation which is under Canadian control.[51] In comparison, the refundable university R&D tax credit applies to 80% of the amount of the research contract, at a rate of 35%.[52]

For example, a corporation under Canadian control that carries on a business in Canada and outsources $100 000 worth of R&D work to a subcontractor who carries out this work on the corporation's behalf, could be entitled to a refundable tax credit for R&D salaries and wages of between $8 750 and $17 500, depending on the case, as compared to a university R&D tax credit worth $28 000, provided that all the conditions otherwise applicable are met.

In this regard, the fiscal policy underlying the tax assistance granted in the form of refundable R&D tax credits is that businesses should benefit rather than prescribed research entities, since the latter are publicly funded.

50 All the refundable R&D tax credits referred to in this text take into account the 12½% reduction in these rates announced in this Budget Speech. In the case of the refundable tax credit for R&D salaries and wages, the rate was formerly 20%, and varied between 20% and 40% in certain situations, and in the case of the refundable university R&D tax credit, the rate was formerly 40%.

51 Briefly, this applies to corporations under Canadian control whose assets, including the assets of associated corporations, vary between $25 million and $50 million, and the higher rate applies solely to the first $2 million of R&D expenditure.

52 In cases where the taxpayer has no connection to the prescribed research entity which is carrying out the R&D activities as a subcontractor.

Furthermore, the fiscal policy underlying refundable R&D tax credits is to encourage businesses to carry out and support R&D, and therefore any arrangement whereby a prescribed research entity contributes, directly or indirectly, to the funding of R&D projects which are subcontracted to it is not acceptable.

However, this fiscal policy is not intended to hamper joint research.

For example, research could be carried out jointly by a prescribed research entity and a corporation, in a case where a granting agency awards funding to that entity for an R&D project, and where the corporation subcontracts to that entity R&D work relating to the business the corporation carries on and to the R&D project in question.

In such a case, only the portion of R&D expenditures incurred by the entity on behalf of the corporation which subcontracted R&D work thereto gives entitlement to refundable R&D tax credits, and that portion must be clearly identified in the research budgets.

This subsection recalls the contribution rules respecting R&D contracts and sets out the streamlining measures applicable thereto, which enable an eligible university entity or an eligible public research centre to subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work.

This subsection also: 1) provides clarification concerning the type of shares that an eligible university entity or an eligible public research centre may subscribe for as part of the above-mentioned streamlining measures; 2) sets out the changes to the eligibility conditions for refundable R&D tax credits as they relate to corporations; and 3) introduces a new streamlining measure to the contribution rules so that the financial participation of an eligible university entity or an eligible public research centre is authorized in certain cases.

Lastly, more general clarifications are provided as concerns the financial contribution of a research applications organization to an R&D project for which the work has been entrusted to an entity or a centre that is not a member of this organization, and as concerns certain forms of contributions which reduce or cancel out the refundable tax credits relating to an R&D project.

❑ Brief reminder of the contribution rules

In recent years, contribution rules respecting R&D contracts were implemented to ensure, in particular, that a person who carries on a business in Canada and who subcontracts R&D work to an eligible university entity, an eligible public research centre or an eligible research consortium is not entitled to a refundable R&D tax credit if that entity, centre or consortium contributes, directly or indirectly, to the funding of the R&D project.

Moreover, since Québec's industrial structure is largely composed of SMEs which, in many cases, do not have sufficient human or material resources to carry out R&D activities in full, collaboration between persons who carry on businesses and the university sector is fostered thanks to more generous tax assistance, i.e. the refundable university R&D tax credit, in order to boost the calibre of industrial research in Québec.

The tax assistance granted to a person who carries on a business in Canada and who subcontracts his R&D activities to a university entity, a public research centre or a research consortium (prescribed research entity) is greater than if that person carried out his own R&D activities or entrusted them to another subcontractor.

As for the refundable tax credit for R&D salaries and wages, it covers, in particular, the salary paid by a person to his employees, where that person carries out his own R&D in Québec, or half the amount of the research contract, where the R&D activities are entrusted to a subcontractor who is at arm's length with that person. In both cases, the rate of the tax credit is set at 17.5%,[50] but may vary between 17.5% and 35% in the case of a corporation which is under Canadian control.[51] In comparison, the refundable university R&D tax credit applies to 80% of the amount of the research contract, at a rate of 35%.[52]

For example, a corporation under Canadian control that carries on a business in Canada and outsources $100 000 worth of R&D work to a subcontractor who carries out this work on the corporation's behalf, could be entitled to a refundable tax credit for R&D salaries and wages of between $8 750 and $17 500, depending on the case, as compared to a university R&D tax credit worth $28 000, provided that all the conditions otherwise applicable are met.

In this regard, the fiscal policy underlying the tax assistance granted in the form of refundable R&D tax credits is that businesses should benefit rather than prescribed research entities, since the latter are publicly funded.

50 All the refundable R&D tax credits referred to in this text take into account the 12½% reduction in these rates announced in this Budget Speech. In the case of the refundable tax credit for R&D salaries and wages, the rate was formerly 20%, and varied between 20% and 40% in certain situations, and in the case of the refundable university R&D tax credit, the rate was formerly 40%.

51 Briefly, this applies to corporations under Canadian control whose assets, including the assets of associated corporations, vary between $25 million and $50 million, and the higher rate applies solely to the first $2 million of R&D expenditure.

52 In cases where the taxpayer has no connection to the prescribed research entity which is carrying out the R&D activities as a subcontractor.

Furthermore, the fiscal policy underlying refundable R&D tax credits is to encourage businesses to carry out and support R&D, and therefore any arrangement whereby a prescribed research entity contributes, directly or indirectly, to the funding of R&D projects which are subcontracted to it is not acceptable.

However, this fiscal policy is not intended to hamper joint research.

For example, research could be carried out jointly by a prescribed research entity and a corporation, in a case where a granting agency awards funding to that entity for an R&D project, and where the corporation subcontracts to that entity R&D work relating to the business the corporation carries on and to the R&D project in question.

In such a case, only the portion of R&D expenditures incurred by the entity on behalf of the corporation which subcontracted R&D work thereto gives entitlement to refundable R&D tax credits, and that portion must be clearly identified in the research budgets.

This subsection recalls the contribution rules respecting R&D contracts and sets out the streamlining measures applicable thereto, which enable an eligible university entity or an eligible public research centre to subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work.

This subsection also: 1) provides clarification concerning the type of shares that an eligible university entity or an eligible public research centre may subscribe for as part of the above-mentioned streamlining measures; 2) sets out the changes to the eligibility conditions for refundable R&D tax credits as they relate to corporations; and 3) introduces a new streamlining measure to the contribution rules so that the financial participation of an eligible university entity or an eligible public research centre is authorized in certain cases.

Lastly, more general clarifications are provided as concerns the financial contribution of a research applications organization to an R&D project for which the work has been entrusted to an entity or a centre that is not a member of this organization, and as concerns certain forms of contributions which reduce or cancel out the refundable tax credits relating to an R&D project.

⌟ Brief reminder of the contribution rules

In recent years, contribution rules respecting R&D contracts were implemented to ensure, in particular, that a person who carries on a business in Canada and who subcontracts R&D work to an eligible university entity, an eligible public research centre or an eligible research consortium is not entitled to a refundable R&D tax credit if that entity, centre or consortium contributes, directly or indirectly, to the funding of the R&D project.

Moreover, the Minister of Revenue is empowered, according to these rules, to designate any person or partnership as being party to an R&D project, with the result that the funding granted in respect of an R&D project by a person or partnership designated by the Minister of Revenue constitutes a contribution that renders this R&D project ineligible for refundable R&D tax credits.

For example, according to the general rule and subject to certain exceptions, a corporation that concludes a research contract worth $100 000 with an eligible university entity is not entitled to refundable R&D tax credits if this entity makes a financial contribution to the corporation's R&D project, whether directly or indirectly, in the form of an investment, a loan, a debenture, a subscription for shares of the capital stock of the corporation, acquisition of a title of ownership, etc., regardless of the relative worth of such a contribution. Thus, the corporation would not be entitled to any refundable R&D tax credits in this example, even if the entity only contributed $1 000.

In this same example, the eligible university entity could be considered to have made an indirect contribution where the amount of $1 000, in the form of a debenture, is paid to the corporation by a limited partnership of which this entity is a member. In this case, as mentioned above, the Minister of Revenue could designate the limited partnership as being party to the R&D project, with the result that the research contract worth $100 000 would not give entitlement to any refundable R&D tax credits, due to the contribution of $1 000.

❑ Streamlining measures relating to subscription for shares

Nonetheless, certain streamlining measures do allow a person to receive refundable R&D tax credits, even if that person has received a contribution to an R&D project. Two of these measures are designed to enable an eligible university entity or an eligible public research centre to become a shareholder in a corporation, without rendering it ineligible for refundable R&D tax credits.

These two measures are in line with the government's science policy, which aims to develop practical applications for university research findings, in particular by implementing mechanisms enabling these findings to be effectively transferred to the socio-economic sector.

• First streamlining measure

Under the first streamlining measure, an eligible university entity or an eligible public research centre may subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work as part of a research contract, with no reduction in the refundable R&D tax credit that can be claimed by this corporation, where the amount paid by the entity or centre in consideration of the issuing of these shares consists in a technology transfer.

For example, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a technology transfer from this university, and subcontracts R&D work to this university as part of a research contract worth $100 000, there is no reduction in the amount of the tax credit that the corporation may claim in respect of this work.

However, the technology transfer as such does not translate into the liquid assets the corporation needs to pay the $100 000 for the carrying out of the R&D work it has entrusted to the university. In this case, the funding required to pay the $100 000 could come from a partner other than the university, a venture capital corporation for example.

Thus, assuming that the corporation obtains funding of $100 000 from a venture capital corporation, in consideration of the issuing of shares of its capital stock or otherwise, and that this amount is used to pay the $100 000 worth of research work entrusted to the university, then this corporation may claim a refundable R&D tax credit of $28 000, i.e. 80% of $100 000 at a rate of 35%, provided that all the conditions otherwise applicable are met.[53]

- **Second streamlining measure**

The second streamlining measure also authorizes an eligible university entity or an eligible public research centre to subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work as part of a research contract, where the amount paid by the entity or the centre, in consideration of the issuing of these shares, consists in something other than a technology transfer, i.e. an amount of money or the transfer of property other than a technology, for example. However, in this case, the amount of the refundable R&D tax credit that may be claimed by the corporation will be reduced.

For example, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a payment of $100 000 made by this university (instead of a technology transfer as in the above example), and where it subcontracts R&D work to this university as part of a research contract worth $100 000, the base of the tax credit that the corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the university, with the result that this corporation is not entitled to any tax credits.

53 One of these conditions is that the corporation cannot be controlled, directly or indirectly, by the university entity.

Moreover, the Minister of Revenue is empowered, according to these rules, to designate any person or partnership as being party to an R&D project, with the result that the funding granted in respect of an R&D project by a person or partnership designated by the Minister of Revenue constitutes a contribution that renders this R&D project ineligible for refundable R&D tax credits.

For example, according to the general rule and subject to certain exceptions, a corporation that concludes a research contract worth $100 000 with an eligible university entity is not entitled to refundable R&D tax credits if this entity makes a financial contribution to the corporation's R&D project, whether directly or indirectly, in the form of an investment, a loan, a debenture, a subscription for shares of the capital stock of the corporation, acquisition of a title of ownership, etc., regardless of the relative worth of such a contribution. Thus, the corporation would not be entitled to any refundable R&D tax credits in this example, even if the entity only contributed $1 000.

In this same example, the eligible university entity could be considered to have made an indirect contribution where the amount of $1 000, in the form of a debenture, is paid to the corporation by a limited partnership of which this entity is a member. In this case, as mentioned above, the Minister of Revenue could designate the limited partnership as being party to the R&D project, with the result that the research contract worth $100 000 would not give entitlement to any refundable R&D tax credits, due to the contribution of $1 000.

Streamlining measures relating to subscription for shares

Nonetheless, certain streamlining measures do allow a person to receive refundable R&D tax credits, even if that person has received a contribution to an R&D project. Two of these measures are designed to enable an eligible university entity or an eligible public research centre to become a shareholder in a corporation, without rendering it ineligible for refundable R&D tax credits.

These two measures are in line with the government's science policy, which aims to develop practical applications for university research findings, in particular by implementing mechanisms enabling these findings to be effectively transferred to the socio-economic sector.

• First streamlining measure

Under the first streamlining measure, an eligible university entity or an eligible public research centre may subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work as part of a research contract, with no reduction in the refundable R&D tax credit that can be claimed by this corporation, where the amount paid by the entity or centre in consideration of the issuing of these shares consists in a technology transfer.

For example, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a technology transfer from this university, and subcontracts R&D work to this university as part of a research contract worth $100 000, there is no reduction in the amount of the tax credit that the corporation may claim in respect of this work.

However, the technology transfer as such does not translate into the liquid assets the corporation needs to pay the $100 000 for the carrying out of the R&D work it has entrusted to the university. In this case, the funding required to pay the $100 000 could come from a partner other than the university, a venture capital corporation for example.

Thus, assuming that the corporation obtains funding of $100 000 from a venture capital corporation, in consideration of the issuing of shares of its capital stock or otherwise, and that this amount is used to pay the $100 000 worth of research work entrusted to the university, then this corporation may claim a refundable R&D tax credit of $28 000, i.e. 80% of $100 000 at a rate of 35%, provided that all the conditions otherwise applicable are met.[53]

- **Second streamlining measure**

The second streamlining measure also authorizes an eligible university entity or an eligible public research centre to subscribe for shares of the capital stock of a corporation which mandates it to carry out R&D work as part of a research contract, where the amount paid by the entity or the centre, in consideration of the issuing of these shares, consists in something other than a technology transfer, i.e. an amount of money or the transfer of property other than a technology, for example. However, in this case, the amount of the refundable R&D tax credit that may be claimed by the corporation will be reduced.

For example, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a payment of $100 000 made by this university (instead of a technology transfer as in the above example), and where it subcontracts R&D work to this university as part of a research contract worth $100 000, the base of the tax credit that the corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the university, with the result that this corporation is not entitled to any tax credits.

53 One of these conditions is that the corporation cannot be controlled, directly or indirectly, by the university entity.

Moreover, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a payment of $100 000 made by this university and receives additional funding of $60 000 from another partner, for example, a venture capital corporation, and where this corporation subcontracts R&D work to the university as part of a research contract worth $100 000, the base of the tax credit that this corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of this work.

In this respect, the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of the R&D work provided for in the research contract, and that reduces the base of the tax credit, corresponds to $62 500, i.e. the proportion of the university's contribution to the corporation, that is, 100 000/160 000.[54]

Accordingly, as concerns this research contract worth $100 000, the corporation may claim a refundable university R&D tax credit of $10 500, which corresponds to 80% of $37 500 (i.e. $100 000 - $62 500) at a rate of 35%, provided that all the conditions otherwise applicable are met.

Furthermore, assuming that this corporation has a source of income that supplies it with an amount of $20 000, and that it subcontracts R&D work worth $80 000 to the university as part of a second research contract,[55] the base of the tax credit that this corporation may claim, which corresponds to the $80 000 that the research contract is worth, will be reduced by the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of this work.

In this case, the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of the R&D work provided for in the research contract, and that reduces the base of the tax credit, corresponds to $37 500, i.e. the portion of the amount of $100 000 paid by the university that was not taken into account in the first research contract.[56]

Only the amount of $100 000 paid by the university reduces the refundable R&D tax credit that the corporation may claim in respect of the two research contracts, and the proportion of the university's contribution to the corporation, i.e. 62.5% (100 000/160 000), is not taken into account in respect of the corporation's income of $20 000.

Thus, provided that all the conditions otherwise applicable are met, the corporation may claim, in respect of the second research contract, a refundable university R&D tax credit of $11 900, which corresponds to 80% of $42 500 (i.e. $80 000 - $37 500) at a rate of 35%.

54 None of the corporation's other expenditures are considered in these examples, but the same percentages would apply.

55 Corresponds to the total amount of $60 000 remaining from the first round of funding mentioned above ($160 000 – $100 000) plus the amount of $20 000 from this source of income.

56 As mentioned above, the portion of the amount of $100 000 paid by the university that was used to reduce the base of the tax credit in respect of the first research contract corresponds to $62 500.

These examples show that the base of the refundable R&D tax credit that the corporation may claim in respect of the two research contracts, that is, $100 000 for the first contract and $80 000 for the second, is reduced solely by the amount of $100 000 subscribed by the university, divided as follows: $62 500 in respect of the first research contract and $37 500 in respect of the second.

❑ Clarification concerning the streamlining measures relating to subscription for shares

The two streamlining measures described above do not specify that the shares for which an eligible university entity or an eligible public research centre may subscribe must necessarily be voting shares of a corporation's capital stock.

By allowing an eligible university entity or an eligible public research centre to subscribe solely for shares of a corporation's capital stock rather than for other forms of funding, these streamlining measures aim, among other things, to limit the financial contribution of such entity or centre.

If such an entity or centre holds more than 50% of the voting shares of a corporation's capital stock, it controls that corporation, thereby making the latter ineligible for the refundable university R&D tax credit, because in order to be entitled thereto, a corporation may not be controlled, in fact or by law, by an eligible university entity or an eligible public research centre, among other bodies.

In this context, in order to ensure that this objective is met, the tax legislation will be amended to ensure that the streamlining of the contribution rules making an R&D project eligible for refundable R&D tax credits, even if an eligible university entity or an eligible public research centre subscribes for shares of the capital stock of a corporation that mandates it to carry out work on such R&D project, applies solely in respect of shares of a corporation's capital stock comprising a number of votes in the corporation which, under any circumstances and regardless of the number of shares held, is not lower than the number of votes of any other shares of this corporation's capital stock.

This amendment will apply in relation to R&D expenditures incurred after the day of this Budget Speech, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

Moreover, in a case where a corporation issues shares of its capital stock to a Québec university in consideration of a payment of $100 000 made by this university and receives additional funding of $60 000 from another partner, for example, a venture capital corporation, and where this corporation subcontracts R&D work to the university as part of a research contract worth $100 000, the base of the tax credit that this corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of this work.

In this respect, the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of the R&D work provided for in the research contract, and that reduces the base of the tax credit, corresponds to $62 500, i.e. the proportion of the university's contribution to the corporation, that is, 100 000/160 000.[54]

Accordingly, as concerns this research contract worth $100 000, the corporation may claim a refundable university R&D tax credit of $10 500, which corresponds to 80% of $37 500 (i.e. $100 000 - $62 500) at a rate of 35%, provided that all the conditions otherwise applicable are met.

Furthermore, assuming that this corporation has a source of income that supplies it with an amount of $20 000, and that it subcontracts R&D work worth $80 000 to the university as part of a second research contract,[55] the base of the tax credit that this corporation may claim, which corresponds to the $80 000 that the research contract is worth, will be reduced by the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of this work.

In this case, the portion of the subscription of $100 000 paid by the university that can reasonably be attributed to the carrying out of the R&D work provided for in the research contract, and that reduces the base of the tax credit, corresponds to $37 500, i.e. the portion of the amount of $100 000 paid by the university that was not taken into account in the first research contract.[56]

Only the amount of $100 000 paid by the university reduces the refundable R&D tax credit that the corporation may claim in respect of the two research contracts, and the proportion of the university's contribution to the corporation, i.e. 62.5% (100 000/160 000), is not taken into account in respect of the corporation's income of $20 000.

Thus, provided that all the conditions otherwise applicable are met, the corporation may claim, in respect of the second research contract, a refundable university R&D tax credit of $11 900, which corresponds to 80% of $42 500 (i.e. $80 000 - $37 500) at a rate of 35%.

54 None of the corporation's other expenditures are considered in these examples, but the same percentages would apply.

55 Corresponds to the total amount of $60 000 remaining from the first round of funding mentioned above ($160 000 – $100 000) plus the amount of $20 000 from this source of income.

56 As mentioned above, the portion of the amount of $100 000 paid by the university that was used to reduce the base of the tax credit in respect of the first research contract corresponds to $62 500.

These examples show that the base of the refundable R&D tax credit that the corporation may claim in respect of the two research contracts, that is, $100 000 for the first contract and $80 000 for the second, is reduced solely by the amount of $100 000 subscribed by the university, divided as follows: $62 500 in respect of the first research contract and $37 500 in respect of the second.

Clarification concerning the streamlining measures relating to subscription for shares

The two streamlining measures described above do not specify that the shares for which an eligible university entity or an eligible public research centre may subscribe must necessarily be voting shares of a corporation's capital stock.

By allowing an eligible university entity or an eligible public research centre to subscribe solely for shares of a corporation's capital stock rather than for other forms of funding, the streamlining measures aim, among other things, to limit the financial contribution of such entity or centre.

If such an entity or centre holds more than 50% of the voting shares of a corporation's capital stock, it controls that corporation, thereby making the latter ineligible for the refundable university R&D tax credit, because in order to be entitled thereto, a corporation may not be controlled, in fact or by law, by an eligible university entity or an eligible public research centre, among other bodies.

In this context, in order to ensure that this objective is met, the tax legislation will be amended to ensure that the streamlining of the contribution rules making an R&D project eligible for refundable R&D tax credits, even if an eligible university entity or an eligible public research centre subscribes for shares of the capital stock of a corporation that mandates it to carry out work on such R&D project, applies solely in respect of shares of a corporation's capital stock comprising a number of votes in the corporation which, under any circumstances and regardless of the number of shares held, is not lower than the number of votes of any other shares of this corporation's capital stock.

This amendment will apply in relation to R&D expenditures incurred after the day of this Budget Speech, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

❑ Amendments concerning the eligibility of a corporation for refundable R&D tax credits

As briefly mentioned above, a corporation is not eligible for the refundable university R&D tax credit, in particular, where it was controlled, directly or indirectly, in any way whatsoever, by an eligible university entity, an eligible public research centre, an eligible research consortium, a trust of which one of the income or capital beneficiaries is an eligible university entity, an eligible public research centre or an eligible research consortium, or a corporation that carries on a personal services business, during the 24 months preceding the date on which a university research contract or an eligible research contract was concluded.

However, in the context of the government's science policy concerning the development of practical applications for university research findings, situations may arise where a corporation is controlled by several of the above-mentioned entities. Furthermore, due to the streamlining of the contribution rules respecting R&D contracts as part of this policy, other situations may arise where, in respect of a research contract, a corporation is controlled by one or several such entities, after the date on which this research contract is concluded.

The aim of the government's fiscal policy is to render a corporation controlled in fact or by law by a single eligible university entity or by several such entities, for example, in respect of a research contract, ineligible for refundable R&D tax credits, where it subcontracts R&D work relating to said contract to such an entity, eligible public research centre or eligible research consortium.

The tax legislation will thus be amended to ensure that: 1) the eligibility condition for a corporation, as concerns the persons who control it, also applies to the refundable tax credit for R&D salaries and wages; 2) the control of a corporation in relation to a research contract is also determined for a period subsequent to that contract; and 3) control by several entities is considered.

More specifically, the tax legislation will be amended to render a corporation ineligible for refundable R&D tax credits where, during the 24 months preceding the date on which a research contract is concluded, or at a later date determined by the Minister of Revenue, the corporation is controlled, directly or indirectly, in any way whatsoever, by an eligible university entity, an eligible public research centre, an eligible research consortium, a trust of which one of the income or capital beneficiaries is an eligible university entity, an eligible public research centre or an eligible research consortium, or a corporation that carries on a personal services business, or where the corporation is controlled in such manner by several such entities, centres, consortiums, trusts or corporations.

For greater clarity, these amendments will apply in respect of the refundable tax credit for R&D salaries and wages solely in cases where a corporation subcontracts R&D work, as part of a research contract, to an eligible university entity, an eligible public research centre or an eligible research consortium.

These amendments will apply in relation to R&D expenditures incurred after the day of this Budget Speech, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

❑ New streamlining measure concerning funding with conversion privileges

Where an eligible university entity or an eligible public research centre grants funding, directly or indirectly, in the form of a loan, a debenture or otherwise, to a corporation which mandates it to carry out R&D work as part of a research contract, this corporation is not entitled to any refundable R&D tax credits in respect of said contract.

For example, a corporation is not entitled to any refundable R&D tax credits in a case where an eligible university entity grants it funding in the amount of $1 000 in the form of a debenture, indirectly or through a limited partnership of which the entity is a member, in relation to R&D work that is subcontracted to this entity by the corporation as part of a research contract worth $100 000.

In such a case, the Minister of Revenue could designate the limited partnership as being party to the R&D project, and the debenture of $1 000 would constitute a contribution rendering the corporation ineligible for any refundable R&D tax credit.

The research applications organizations that were set up as part of the government's science policy, which are limited partnerships owned by Québec universities and their network of affiliated institutions, are sometimes called upon to contribute, jointly with other investors, to funding certain R&D projects for which the work is entrusted to eligible university entities or eligible public research centres.

In this respect, the above-mentioned streamlining measures, which enable eligible university entities and eligible public research centres to subscribe for shares of the capital stock of a corporation that mandates them to carry out R&D work, do not meet the requirements of certain arrangements, in which a position in the capital stock of a corporation is not sought by the various financial partners. This may constitute a major constraint in terms of carrying out R&D research projects designed to develop practical applications for university research findings.

For greater clarity, these amendments will apply in respect of the refundable tax credit for R&D salaries and wages solely in cases where a corporation subcontracts R&D work, as part of a research contract, to an eligible university entity, an eligible public research centre or an eligible research consortium.

These amendments will apply in relation to R&D expenditures incurred after the day of this Budget Speech, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

New streamlining measure concerning funding with conversion privileges

Where an eligible university entity or an eligible public research centre grants funding, directly or indirectly, in the form of a loan, a debenture or otherwise, to a corporation which mandates it to carry out R&D work as part of a research contract, this corporation is not entitled to any refundable R&D tax credits in respect of said contract.

For example, a corporation is not entitled to any refundable R&D tax credits in a case where an eligible university entity grants it funding in the amount of $1 000 in the form of a debenture, indirectly or through a limited partnership of which the entity is a member, in relation to R&D work that is subcontracted to this entity by the corporation as part of a research contract worth $100 000.

In such a case, the Minister of Revenue could designate the limited partnership as being party to the R&D project, and the debenture of $1 000 would constitute a contribution rendering the corporation ineligible for any refundable R&D tax credit

The research applications organizations that were set up as part of the government's science policy, which are limited partnerships owned by Québec universities and their network of affiliated institutions, are sometimes called upon to contribute, jointly with other investors, to funding certain R&D projects for which the work is entrusted to eligible university entities or eligible public research centres.

In this respect, the above-mentioned streamlining measures, which enable eligible university entities and eligible public research centres to subscribe for shares of the capital stock of a corporation that mandates them to carry out R&D work, do not meet the requirements of certain arrangements, in which a position in the capital stock of a corporation is not sought by the various financial partners. This may constitute a major constraint in terms of carrying out R&D research projects designed to develop practical applications for university research findings.

In this context, a new streamlining measure will be applied to the contribution rules respecting R&D contracts, to ensure that a direct or indirect financial contribution made by an eligible university entity or an eligible public research centre no longer prevents an R&D research project from giving entitlement to the refundable R&D tax credit.

However, the funding authorized under this new streamlining measure will entail a reduction in the refundable R&D tax credit that can be claimed by a corporation which concludes a research contract with an eligible university entity or an eligible public research centre.

Furthermore, in accordance with the streamlining measures relating to subscription for shares described above, specific conditions designed to limit the financial contribution of such an entity or centre will be implemented.

More specifically, the tax legislation will be amended to render an R&D project eligible for the purposes of refundable R&D tax credits, even if an eligible university entity, an eligible public research centre, a person or partnership that is not at arm's length with this entity or centre, or any other person or partnership designated by the Minister of Revenue grants eligible funding to a corporation that mandates such an entity or centre to carry out the work for this R&D project. However, in this case, the eligible funding that can reasonably be attributed to the carrying out of the R&D project will reduce the expenditures eligible for the purposes of the refundable R&D tax credits.

In this respect, "eligible funding" shall mean any funding, in the form of a loan, debenture or otherwise, or a subscription for shares of the capital stock of the corporation, other than the shares already contemplated by the current streamlining measures.[57] Moreover, in order to qualify as eligible funding, both the funding and the shares must be convertible into shares having full voting rights of the corporation's capital stock.

In addition, for the purposes of the refundable R&D tax credits, a person or a partnership that is entitled to convert eligible funding into shares having full voting rights of the corporation's capital stock will be deemed, at a given time, to occupy the same position, in relation to control of the corporation, as if that person or partnership owned shares at that time.

Furthermore, rules similar to those currently in force, concerning the obligation to apply to the MRQ for an advance ruling in the case of a subscription for shares having full voting rights of a corporation's capital stock by an eligible university entity or an eligible public research centre, will be implemented with respect to eligible funding.

57 Refers to shares comprising a number of votes in the corporation which, under any circumstances and regardless of the number of shares held, is not lower than the number of votes of any other shares of this corporation's capital stock. For purposes of clarity, these shares are referred to as "shares having full voting rights."

Briefly, eligible funding granted by such an entity or centre to a corporation that launches an R&D project, and the portion of this funding that can reasonably be attributed to the subcontracting of said R&D project to such an entity or centre, must be disclosed in the application for advance ruling to be submitted to the MRQ in relation to this R&D project. The corporation will not be entitled to a refundable R&D tax credit unless the MRQ confirms, in its advance ruling, that the R&D project meets the objectives pursued by the government's fiscal policy in relation to refundable R&D tax credits.

Where the eligible funding is in the form of loan, a debenture or other such funding, these changes will apply in relation to R&D expenditures incurred after March 29, 2001, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

Where the eligible funding consists in a subscription for shares of a corporation's capital stock, other than shares having full voting rights of said corporation's capital stock, these changes will apply in relation to R&D expenditures incurred after the day of this Budget Speech, in respect of R&D work carried out after that date, as part of a contract concluded after that date.

❑ General clarifications

The two streamlining measures concerning subscription for shares and eligible funding are designed to allow eligible university entities and eligible public research centres to participate, directly or indirectly, in certain arrangements relating to R&D projects designed to develop practical applications for university research findings.

These measures are also in line with the government's science policy, under which research applications organizations were set up to facilitate the transfer of university research findings to the socio-economic sector.

• Financial contribution of a research applications organization of which the entity or centre carrying out R&D is not a member

The contribution rules respecting R&D contracts are designed to ensure compliance with the fiscal policy underlying refundable R&D tax credits. In this regard, subject to certain exceptions, including those described above, the direct or indirect financial contribution of an eligible university entity or an eligible public research centre to an R&D project for which the work has been subcontracted to such entity or centre is forbidden.

The contribution rules also apply to cases where an eligible university entity or an eligible public research centre makes a financial contribution to an R&D project for which the work has been subcontracted to another entity or centre that has not contributed to this funding.

In this context, as mentioned earlier, the Minister of Revenue is empowered to designate any person or partnership as being party to an R&D project.

Accordingly, in order to ensure compliance with the fiscal policy, the Minister of Revenue can designate, as being party to an R&D project, a research applications organization that makes a financial contribution to an R&D project for which the work is entrusted to an eligible university entity or an eligible public research centre which is not a member of this research applications organization. The three streamlining measures described above, in particular, may apply.

For example, in a case where a corporation issues shares of its capital stock to a research applications organization in consideration of the amount of $100 000 paid to it by this organization, and where the corporation subcontracts R&D work to a Québec university which is not a member of this research applications organization as part of a research contract worth $100 000, the base of the tax credit that this corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the research applications organization.

In this example, the Minister of Revenue would designate the research applications organization as being party to the R&D project, and the amount of $100 000 subscribed for shares of the corporation's capital stock by that research applications organization would thus constitute a contribution, in respect of which the streamlining measure concerning subscription of shares applies. However, the corporation would not be entitled to any tax credits in respect of this research contract, due to the reduction provided for by this streamlining measure.

- **Contributions other than a subscription for shares having full voting rights or eligible funding**

Similarly, in cases where an arrangement in respect of an R&D project includes a contribution that does not satisfy the requirements of the streamlining measures applicable to the contribution rules, the refundable R&D tax credit associated with this R&D project may be reduced or even cancelled out.

For example, in a case where a corporation does not issue shares of its capital stock or pay an amount in consideration of property transferred to it by a Québec university, whether it be a technology transfer or other property, and where it subcontracts R&D work to said university as part of a research contract, this corporation may not claim any refundable R&D tax credits, because the property transferred by the university is considered a contribution in respect of which no streamlining measure exists. In this regard, the amount of the contribution as compared to the value of the research contract is irrelevant.

Similarly, let us assume that a corporation issues shares of its capital stock to a Québec university in consideration of an amount of $100 000 paid to it by the university, and obtains additional funding of $60 000 from another partner, for example a venture capital corporation. Assuming that this corporation subcontracts R&D work to the university as part of a research contract worth $160 000, but that the university bears $60 000 worth of R&D expenditures relating to this R&D project,[58] the base of the tax credit that the corporation may claim, which corresponds to the $160 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the university, and by a further $60 000 corresponding to the R&D expenditures borne by the university, by virtue of the streamlining measures specific to the contribution rules provided for in this respect.

The corporation would thus not be entitled to any tax credits in respect of this research contract, by virtue of the reductions provided for by the streamlining measures mentioned in this example.

1.7 Measures concerning culture

By granting a number of refundable tax credits to support the development of Québec's cultural industries, the government targets two objectives. The first is economic in nature, while the second is to further the promotion of Québec's cultural identity through the production of works that are conducive to this goal.

With a view to stabilizing public finances, changes will be made to most refundable tax credits relating to the cultural field in order to reduce the level of assistance granted thereunder. These credits include the tax credit for Québec film and television production, the tax credit for film dubbing, the tax credit for the production of sound recordings, the tax credit for the production of shows and the tax credit for book publishing. The level of assistance granted under the tax credit for film production services will be maintained.

Furthermore, amendments will be made to the *Regulation respecting the recognition of film as Québec films* (Regulation) in order to update the classes of film productions eligible for the tax credit for Québec film and television production. Consequential amendments will also be made for the purposes of the tax credit for film production services and the tax credit for film dubbing.

58 An entity is considered to bear expenditures relating to an R&D project when, for example, it makes premises available free of charge or pays a researcher's salary out of its own funds.

In this context, as mentioned earlier, the Minister of Revenue is empowered to designate any person or partnership as being party to an R&D project.

Accordingly, in order to ensure compliance with the fiscal policy, the Minister of Revenue can designate, as being party to an R&D project, a research applications organization that makes a financial contribution to an R&D project for which the work is entrusted to an eligible university entity or an eligible public research centre which is not a member of this research applications organization. The three streamlining measures described above, in particular, may apply.

For example, in a case where a corporation issues shares of its capital stock to a research applications organization in consideration of the amount of $100 000 paid to it by this organization, and where the corporation subcontracts R&D work to a Québec university which is not a member of this research applications organization as part of a research contract worth $100 000, the base of the tax credit that this corporation may claim, which corresponds to the $100 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the research applications organization.

In this example, the Minister of Revenue would designate the research applications organization as being party to the R&D project, and the amount of $100 000 subscribed for shares of the corporation's capital stock by that research applications organization would thus constitute a contribution, in respect of which the streamlining measure concerning subscription of shares applies. However, the corporation would not be entitled to any tax credits in respect of this research contract, due to the reduction provided for by this streamlining measure.

- **Contributions other than a subscription for shares having full voting rights or eligible funding**

Similarly, in cases where an arrangement in respect of an R&D project includes a contribution that does not satisfy the requirements of the streamlining measures applicable to the contribution rules, the refundable R&D tax credit associated with this R&D project may be reduced or even cancelled out.

For example, in a case where a corporation does not issue shares of its capital stock or pay an amount in consideration of property transferred to it by a Québec university, whether it be a technology transfer or other property, and where it subcontracts R&D work to said university as part of a research contract, this corporation may not claim any refundable R&D tax credits, because the property transferred by the university is considered a contribution in respect of which no streamlining measure exists. In this regard, the amount of the contribution as compared to the value of the research contract is irrelevant.

Similarly, let us assume that a corporation issues shares of its capital stock to a Québec university in consideration of an amount of $100 000 paid to it by the university, and obtains additional funding of $60 000 from another partner, for example a venture capital corporation. Assuming that this corporation subcontracts R&D work to the university as part of a research contract worth $160 000, but that the university bears $60 000 worth of R&D expenditures relating to this R&D project,[58] the base of the tax credit that the corporation may claim, which corresponds to the $160 000 that the research contract is worth, will be reduced by the amount of the subscription of $100 000 paid by the university, and by a further $60 000 corresponding to the R&D expenditures borne by the university, by virtue of the streamlining measures specific to the contribution rules provided for in this respect.

The corporation would thus not be entitled to any tax credits in respect of this research contract, by virtue of the reductions provided for by the streamlining measures mentioned in this example

1.7 Measures concerning culture

By granting a number of refundable tax credits to support the development of Québec's cultural industries, the government targets two objectives. The first is economic in nature, while the second is to further the promotion of Québec's cultural identity through the production of works that are conducive to this goal.

With a view to stabilizing public finances, changes will be made to most refundable tax credits relating to the cultural field in order to reduce the level of assistance granted thereunder. These credits include the tax credit for Québec film and television production, the tax credit for film dubbing, the tax credit for the production of sound recordings, the tax credit for the production of shows and the tax credit for book publishing. The level of assistance granted under the tax credit for film production services will be maintained.

Furthermore, amendments will be made to the *Regulation respecting the recognition of film as Québec films* (Regulation) in order to update the classes of film productions eligible for the tax credit for Québec film and television production. Consequential amendments will also be made for the purposes of the tax credit for film production services and the tax credit for film dubbing.

58 An entity is considered to bear expenditures relating to an R&D project when, for example, it makes premises available free of charge or pays a researcher's salary out of its own funds.

1.7.1 Reduction of 12.5% in the level of assistance

❑ Refundable tax credit for Québec film and television production

The tax credit for Québec film and television production covers labour expenditures incurred in the course of production of a Québec film, as this expression is understood in the Regulation.

This tax credit generally corresponds to 33⅓% of eligible labour expenditures incurred to produce the film. In addition, the labour expenditures giving entitlement to this tax credit may not exceed 50% of the production costs of the film, so that the tax assistance currently may not exceed 16⅔% of such costs.[59]

However, for the purposes of this tax credit, a rate of 45% is applicable regarding labour expenditures relating to the production of certain French-language feature films, certain documentaries and giant-screen films, so that the tax assistance in this regard may reach 22.5% of the production costs of such films.[60]

Moreover, expenditures incurred to produce computer animation or special effects, excluding such expenditures incurred in the production of certain French-language feature films, certain documentaries and giant-screen films, give entitlement to an increase of 11⅓% in the rate of the tax credit for Québec film and television production applicable to eligible labour expenditures.

Lastly, to help producers established outside the Montréal region, specific assistance is provided for such producers if the film is produced outside the Montréal region, in the form of an increase of 10.5% in the rate of the tax credit for Québec film and television production in respect of labour expenditures attributable to services supplied in Québec, outside the Montréal region, in the course of the production of a French-language feature film, documentary or giant-screen film. For other production classes, the tax credit may be increased by up to 22.17% in respect of labour expenditures attributable to services supplied in the regions. In the case of a regional production, tax assistance may reach 27.75% of the production costs of the film.

In all cases, this tax credit may not exceed $2.5 million per film or per series.

59 See subsection 3.2.11.

60 *Ibid.*

The following table illustrates the various rates of the refundable tax credit for Québec film and television production.

TABLE 9

REFUNDABLE TAX CREDIT FOR QUÉBEC FILM AND TELEVISION PRODUCTION BEFORE THE 12.5% REDUCTION
(as a percentage)

	Basic rate	Minimum effective rate[1]	Increase for special effects and computer animation	Increase for regional production	Total	Cap on labour expenditures	Maximum effective rate[1]
	(as a % of labour expenditures)					(as a % of production costs)	
French-language feature film and unique documentary	45	22.5	n.a.	10½	55.5	50	27¾[2]
Giant screen	45	22.5	n.a.	10½	55.5	50	27¾[2]
Other production	33⅓	16⅔	11⅔	22.17	55.5[3]	50	27¾[4]

1 The effective rate is obtained by multiplying the nominal rate of the tax credit, expressed as a function of labour expenditures, by the rate of the cap, expressed as a function of production costs.

2 For the purposes of determining the maximum assistance, it is assumed that the labour expenditures that give entitlement to the basic rate also give entitlement to the additional rate for the regional increase.

3 Where a portion or all of the labour expenditures give entitlement to both the increase for special effects and computer animation and to the regional increase, the total may not exceed 55.5%.

4 For the purposes of determining the maximum assistance, it is assumed that the labour expenditures that give entitlement to the basic rate also give entitlement to the additional rates for special effects or computer animation and for the regional increase.

The legislation will be amended so as to reduce the rates of the refundable tax credit for Québec film and television production by 12.5%.

Accordingly, the rates of the refundable tax credit for Québec film and television production will henceforth be as shown in the following table.

TABLE 10

REFUNDABLE TAX CREDIT FOR QUÉBEC FILM AND TELEVISION PRODUCTION AFTER THE 12.5% REDUCTION
(as a percentage)

	Basic rate	Minimum effective rate[1]	Increase for special effects and computer animation	Increase for regional production	Total	Cap on labour expenditures	Maximum effective rate[1]
	(as a % of labour expenditures)					(as a % of production costs)	
French-language feature film and unique documentary	39.375	19.6875	n.a.	9.1875	48.5625	50	24.28125[2]
Giant screen	39.375	19.6875	n.a.	9.1875	48.5625	50	24.28125[2]
Other production	29.1667	14.58335	10.2083	19.3958	48.5625[3]	50	24.28125[4]

1 The effective rate is obtained by multiplying the nominal rate of the tax credit, expressed as a function of labour expenditures, by the rate of the cap, expressed as a function of production costs.

2 For the purposes of determining the maximum assistance, it is assumed that the labour expenditures that give entitlement to the basic rate also give entitlement to the additional rate for the regional increase.

3 Where a portion or all of the labour expenditures give entitlement to both the increase for special effects and computer animation and to the regional increase, the total may not exceed 48.5625%.

4 For the purposes of determining the maximum assistance, it is assumed that the labour expenditures that give entitlement to the basic rate also give entitlement to the additional rates for special effects or computer animation and for the regional increase.

A change will also be made to ensure that the tax credit for Québec film and television production, with respect to a film or a series, does not exceed $2 187 500.

These changes will apply in relation to a film or television production regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with the Société de développement des entreprises culturelles (SODEC) after August 31, 2003.

They will also apply regarding a film or television production, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on such production was not sufficiently advanced on the day of this Budget Speech.

However, in the specific case of a series, these changes will not apply regarding an episode or a show that is part of a series, if an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed, is filed with SODEC before September 1, 2003, regarding an episode or a show that is part of such series, and if SODEC considers that the work on the production of an episode or a show of such series was sufficiently advanced on the day of this Budget Speech.

❑ Refundable tax credit for film dubbing

The refundable tax credit for film dubbing covers labour expenditures relating to certain services supplied in Québec and inherent in the process of dubbing film or television productions. In general, the productions that are eligible for this tax credit are the same as those eligible for the tax credit for Québec film and television production, aside from Québec content standards.

This tax credit is equal to 33⅓% of the eligible labour expenditures, which are limited, however, to 40.5% of the consideration paid for the execution of the dubbing contract, excluding the goods and services tax and the Québec sales tax.

The legislation will be amended to reduce the rate of the tax credit for film dubbing to 29.1667%.

This change will apply in relation to a production for which the dubbing is completed after August 31, 2003.

❑ Refundable tax credit for the production of sound recordings

The refundable tax credit for the production of sound recordings covers labour expenditures relating to services supplied in Québec for the production of eligible sound recordings. In general, the sound recordings that are eligible for this tax credit have significant Québec content.

This tax credit is equal to 33⅓% of the eligible labour expenditures incurred to produce an eligible sound recording. However, such expenditures may not exceed 45% of the eligible production costs of such a recording, which means that the tax assistance may not exceed 15% of such costs. In respect of an eligible sound recording, the tax credit may not exceed $50 000.

The legislation will be amended to reduce the rate of the tax credit for the production of sound recordings to 29.1667%.

Moreover, the legislation will be amended to ensure that in respect of an eligible sound recording, the tax credit does not exceed $43 750.

These changes will apply in relation to a sound recording regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with SODEC after August 31, 2003.

They will also apply regarding a sound recording, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on such production was not sufficiently advanced on the day of this Budget Speech.

❑ Refundable tax credit for the production of shows

The refundable tax credit for the production of shows covers labour expenditures relating to services supplied for the production of eligible shows. In general, the shows that are eligible for this tax credit have significant Québec content.

This tax credit is equal to 33⅓% of the eligible labour expenditures incurred to produce an eligible show. However, such expenditures may not exceed 45% of the eligible production costs of such a show, which means that the tax assistance may not exceed 15% of such costs. In respect of an eligible show, the tax credit may not exceed $300 000.

The legislation will be amended to reduce the rate of the tax credit for the production of shows to 29.1667%.

Moreover, the legislation will be amended to ensure that in respect of an eligible show, the tax credit does not exceed $262 500.

These changes will apply in relation to labour expenditures incurred after the day of this Budget Speech.

However, they will not apply in relation to labour expenditures incurred regarding a period extending from the preproduction of the show to the end of the first full year from the date of the first performance of the show before an audience, and for which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with SODEC before September 1, 2003.

They will also apply in relation to labour expenditures incurred regarding a period extending from the preproduction of the show to the end of the first full year from the date of the first performance of the show before an audience, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on such production was not sufficiently advanced on the day of this Budget Speech.

❑ Refundable tax credit for book publishing

The refundable tax credit for book publishing covers the labour expenditures attributable to the preparation and printing of an eligible work or group of works. This tax credit is equal to 40% of the eligible labour expenditures incurred in respect of the preparation costs of an eligible work or group of works, and to 30% of the eligible labour expenditures incurred in respect of the printing costs of such a work or group of works.

To be eligible for the purposes of this tax credit, a work must have been written by a Québec author, and a certain percentage of the preparation and printing costs must be paid to Quebecers.

In respect of an eligible work, or a work that is part of an eligible group of works, the tax credit may not exceed $500 000.

The legislation will be amended to reduce the rate of the tax credit for book publishing applicable in respect of preparation costs to 35%, and to reduce the rate of the same tax credit applicable in respect of printing costs to 26.25%.

Moreover, the legislation will be amended to ensure that from now on, in respect of an eligible work or a work that is part of an eligible group of works, the tax credit does not exceed $437 500.

These changes will apply in relation to an eligible work, or a work that is part of an eligible group of works, regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with SODEC after August 31, 2003.

They will also apply regarding an eligible work, or a work that is part of an eligible group of works, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the preparation of such work or group of works was not sufficiently advanced on the day of this Budget Speech.

1.7.2 Maintaining of the level of assistance granted under the refundable tax credit for film production services

The refundable tax credit for film production services covers the Québec labour expenditures attributable to the various stages of production or execution of a foreign production, or of a production that does not meet the criteria for Québec content giving entitlement to the refundable tax credit for Québec film and television production. The amount of the tax credit corresponds to 11% of eligible labour expenditures.

In addition, expenditures incurred to produce computer animation or special effects for use in a production that is eligible for the refundable tax credit for film production services give entitlement to an increase of 20% in the rate of this tax credit applicable to eligible labour expenditures.

To enable Québec cities to maintain their competitive edge with regard to other Canadian cities, and to support the numerous efforts made to convince foreign producers to choose Québec as a filming location, the rate of the tax credit for film production services and the increase in respect of labour expenditures incurred to produce computer animation or special effects for use in a production that is eligible for this tax credit will be maintained at 11% and 20% respectively.

1.7.3 Notion of eligible corporation for the purposes of certain tax credits relating to the cultural field

The refundable tax credit for film production services covers the Québec labour expenditures attributable to the various stages of production or execution of a foreign production.[61] The amount of the tax credit corresponds to 11% of eligible labour expenditures.[62]

The refundable tax credit for the production of shows is equal to 29.1667% of the eligible labour expenditures incurred for the purpose of producing an eligible show.[63] Labour expenditures giving entitlement to this tax credit may not exceed 45% of the production costs of the show, so that the tax assistance may not exceed 13.125% of such costs.

Lastly, the refundable tax credit for the production of sound recordings is equal to 29.1667% of the eligible labour expenditures incurred to produce an eligible sound recording.[64] Such expenditures may not exceed 45% of the production costs of such a recording, so that the tax assistance may not exceed 13.125% of such costs.

In general, an eligible corporation, for the purposes of these tax credits, is a corporation that is not exempt from tax or controlled, directly or indirectly, in any way whatsoever, by a tax-exempt corporation.

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61 This also applies to a production that does not satisfy the criteria for Québec content giving entitlement to the refundable tax credit for Québec film and television production.

62 Taking into account the decision to maintain the level of tax assistance announced in this Budget Speech.

63 Taking into account the reduction of 12.5% in the level of tax assistance announced in this Budget Speech. Formerly, the rate was 33⅓%.

64 *Ibid.*

The exclusion of tax-exempt corporations from eligibility for these tax credits is due to the fact that they already receive a relatively high level of assistance in the form of tax exemption, which is generally accompanied by exemption from the tax on capital. Consequently, it does not appear appropriate to grant additional assistance to such corporations.

Furthermore, in the specific case of tax credits in the cultural field, the purpose of also limiting access to tax credits for a corporation controlled by a tax-exempt corporation was mainly to prevent corporations which already received substantial government funding from benefiting from these tax credits as well.

It was thus stipulated that any corporation controlled, directly or indirectly, in any way whatsoever, by a tax-exempt corporation, would be excluded for the purposes of the tax credit for film production services, the tax credit for the production of shows and the tax credit for the production of sound recordings.

However, the results obtained by applying this generalized exclusion far exceed the objective initially targeted by the fiscal policy. This is the case in particular where the control results from an investment made by an institutional financial partner, for example, the Caisse de dépôt et placement du Québec. A corporation that receives funding from such a financial backer should not be disadvantaged with respect to a corporation that has received a similar investment from a more conventional financial institution.

Also, to ensure compliance with the fiscal policy in force, a distinction must be made between control exercised by a tax-exempt corporation with a cultural mission and control exercised by a tax-exempt corporation with, for example, an investment mandate. In fact, only corporations controlled by a tax-exempt corporation with a cultural mission were contemplated by the introduction of the exclusion pertaining to corporations controlled by a tax-exempt corporation.

Accordingly, the legislation will be amended to specify that only a corporation controlled by a tax-exempt corporation with a cultural mission will be excluded from claiming the tax credit for film production services, the tax credit for the production of shows and the tax credit for the production of sound recordings.

For greater clarity, "corporation with a cultural mission" shall mean, in particular, a corporation which is an institutional producer or broadcaster, but shall not refer to a corporation with an investment mandate, even if the latter's investments are concentrated partly in the cultural industry.

This change will apply, in the case of the tax credit for film production services, in relation to a taxation year of a corporation ending after February 12, 1998.

It will also apply, in the case of the tax credit for the production of shows and the tax credit for the production of sound recordings, in relation to a taxation year of a corporation ending after March 9, 1999.

1.7.4 Updating of the Regulation respecting the recognition of film as Québec films

For a production to be recognized as a Québec film for the purposes of the tax credit for Québec film and television production, the Regulation stipulates that such production must satisfy criteria concerning in particular the type of production, the persons who occupy certain specific creative positions and the percentage of production costs incurred in Québec.

More specifically, the Regulation stipulates that a film must belong to a class of eligible productions and not to a class of excluded productions, in order to be recognized as a Québec film.

The Regulation has not been revised in depth since it came into force in 1991. However, over the past twelve years, the advent of new genres, particularly in terms of television shows, has transformed Québec's audiovisual landscape.

Consequently, the list of classes of eligible productions and of classes of excluded productions provided for in the Regulation is incomplete and requires updating, in order to better take into account the Québec film and television industry of today.

Accordingly, the *Regulation respecting the recognition of film as Québec films* will be amended.

❑ Classes of excluded productions

First, the list of classes of excluded productions will be amended so that the following productions are henceforth ineligible for recognition as Québec films:

— a production intended to raise funds;

— a reality television show;

— a "making of" production;

— a production, other than a documentary, consisting completely or almost completely of stock footage;

— games, questionnaires or contests, in any form, with the exception of educational broadcasts in the form of games, questionnaires or contests intended for children under 13;

— television magazines dealing mainly with construction, renovation, decoration, gardening, horticulture, sports, recreation, hunting, fishing, motor vehicles, fashion, beauty products, cooking, wines or other alcohol, tourism and travel, or a combination thereof;

— variety shows and television magazines of which six or more episodes are broadcast per month, with the exception of such shows intended for children under 13.

For greater clarity, these new production classes are added to the production classes which are currently ineligible for recognition as Québec films under the Regulation.

Moreover, the legislation will be amended to stipulate that a production specifically contemplated by a class of excluded productions may not be recognized as a Québec film as part of a production class that is otherwise eligible. For example, a "making of" production may not be recognized as a documentary.

❑ Classes of eligible productions

The production classes that are eligible for recognition as Québec films will also be amended.

First, a documentary must henceforth comprise a minimum of 30 minutes of programming, or of 30 minutes of programming per episode in the case of a series, in order to be recognized as an eligible production.

In addition, only a variety show that satisfies at least one of the following criteria will henceforth be considered eligible for recognition as a Québec film:

— at least two thirds of its content must consist of performances by performing artists, other than interviews or participation in games, questionnaires or contests, in any form;

— it must be a talk show, and the discussions must concern, exclusively or almost exclusively, artistic, literary, dramatic or musical activities and works;

— it must consist, exclusively or almost exclusively, of performances by performing artists[65] and discussions concerning artistic, literary, dramatic or musical activities and works;

— it must be intended for children under 13.

65 Other than interviews or participation in games, questionnaires or contests, in any form.

In the specific case of a series, a clarification will be introduced stipulating that each episode that is part of a series must qualify for the same class of eligible productions in order for them to be recognized as Québec films.

❑ Application dates

These changes will apply in relation to a film or television production regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed with regard to such production, is filed with SODEC after August 31, 2003.

They will also apply regarding a film or television production, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on such production was not sufficiently advanced on the day of this Budget Speech.

However, in the specific case of a series, these changes will not apply regarding an episode or a show that is part of a series, if an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed, is filed with SODEC before September 1, 2003, regarding an episode or a show that is part of such series, and if SODEC considers that the work on the production of an episode or a show of such series was sufficiently advanced on the day of this Budget Speech.

1.7.5 Regulatory concordance amendments

In general, classes of eligible productions and classes of excluded productions for the purposes of the refundable tax credit for film production services and the refundable tax credit for film dubbing are the same as the classes that are eligible for and excluded from the refundable tax credit for Québec film and television production, aside from Québec content standards.

Accordingly, amendments will be made to the regulations governing the tax credit for film production services and the tax credit for film dubbing, in order to introduce the changes made regarding the regulation governing the tax credit for Québec film and television production.

These changes will apply, in the case of the tax credit for film production services, in respect of a production regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed regarding such production, is filed with SODEC after August 31, 2003.

They will also apply in respect of a film or television production, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on this production was not sufficiently advanced on the day of this Budget Speech.

In the case of the tax credit for film dubbing, these changes will apply in respect of a production that has been dubbed and for which a final certification application is filed with SODEC after August 31, 2003.

1.8 Other tightening measures

1.8.1 Reduction in government support for labour-sponsored funds and Capital régional et coopératif Desjardins

The Québec government has supported the mission and contributed to the growth of the Fonds de solidarité des travailleurs du Québec, Fondaction (Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi) and Capital régional et coopératif Desjardins since they were created.

In terms of taxation, this support takes the form of a tax exemption on the taxable income of these investment corporations and a non-refundable tax credit for individuals who acquire their shares.

Various measures are being introduced to limit the government support granted to these investment corporations.

❑ Elimination of the income tax exemption

Currently, the Fonds de solidarité des travailleurs du Québec, Fondaction and Capital régional et coopératif Desjardins do not pay Québec income tax.

As of the day following the day of this Budget Speech, these investment corporations will no longer enjoy this special tax treatment.

More specifically, for any taxation year ending after the day of this Budget Speech, the Fonds de solidarité des travailleurs du Québec, Fondaction and Capital régional et coopératif Desjardins will no longer be allowed to deduct, in the calculation of their taxable income, an amount not exceeding their taxable income for that taxation year.

However, for the taxation year that includes the day of this Budget Speech, these investment corporations may deduct, in the calculation of their taxable income, an amount not exceeding the portion of this income that corresponds to the number of days in the year that precede the day following the day of this Budget Speech relative to the number of days of such taxation year.

In addition, under the current tax legislation, Capital régional et coopératif Desjardins cannot claim any of the refundable tax credits granted to corporations for incurred expenditures. This restriction, to which the corporation was subject owing to its special tax treatment, will be eliminated for expenditures incurred after the day of this Budget Speech.

As regards labour-sponsored funds, any restriction aimed specifically at making these funds ineligible for a refundable tax credit granted to corporations will be eliminated for expenditures incurred after the day of this Budget Speech.[66]

❑ Temporary limit on government assistance for capitalization

The government contribution to the growth of the Fonds de solidarité des travailleurs du Québec, Fondaction and Capital régional et coopératif Desjardins will be reduced by about 50% for the capitalization period beginning in 2003.

• Labour-sponsored funds

Currently, there is no limit on the number of shares or fractions of shares of a defined class for which taxpayers can obtain a tax credit equal to 15% of the amount paid for the shares that a labour-sponsored fund may issue, subject to its investment requirements, during a given fiscal year. Such classes include Class "A" shares or fractions thereof in the Fonds de solidarité des travailleurs du Québec and Class "A" and Class "B" shares or fractions thereof in Fondaction.

Considering the recent share issues of labour-sponsored funds, the amount of paid-up capital for shares or fractions of shares giving rise to a tax benefit that labour-sponsored funds may raise, with government assistance, during their fiscal year 2003-2004 will be limited to $50 million for Fondaction and $600 million for the Fonds de solidarité des travailleurs du Québec.

This maximum amount will apply to Fondaction's fiscal year beginning June 1, 2003, and ending May 31, 2004, and to the Fonds de solidarité des travailleurs du Québec's fiscal year beginning July 1, 2003, and ending June 30, 2004.

At the end of a labour-sponsored fund's fiscal year 2003-2004, should the amount of paid-up capital for all shares or fractions of shares giving rise to a tax benefit that have been issued by the fund during that fiscal year exceed the maximum amount set for the fund, the latter must pay the Minister of Revenue, no later than the 90th day following the end of the fiscal year, a special tax of an amount equal to 15% of such excess amount.

66 Measures concerning the eligibility of labour-sponsored funds for the refundable tax credits provided for in the tax system are discussed in subsection 3.2.9.

- **Capital régional et coopératif Desjardins**

Currently, the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins giving rise to a tax benefit can increase by $150 million per capitalization period, up to $1.5 billion as at February 28, 2011. However, should the increase in capital for a given period be less than $150 million, the difference between the latter amount and the increase in capital obtained for the period may be added to the allowable limit for a subsequent period.

Where the paid-up capital of issued and outstanding shares of the capital stock of Capital régional et coopératif Desjardins exceeds, at the end of a capitalization period, the maximum paid-up capital stipulated for such period, Capital régional et coopératif Desjardins must pay, no later than the May 31 following the end of such period, a special tax of an amount equal to 50% of such excess amount, from which all the amounts paid under such special tax for a prior capitalization period must be subtracted.

Given the potential growth rate of the authorized capital of Capital régional et coopératif Desjardins, the decrease in the government contribution to the growth of this investment corporation will translate, for the capitalization period beginning March 1, 2003, and ending February 29, 2004, into a $75-million decrease in authorized capital, from $450 million to $375 million at the end of that period.

For greater clarity, for any capitalization period ending after 2004, the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins may increase by another $150 million per capitalization period, up to $1 425 million as at February 28, 2011.

The following table shows the maximum amount that the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins may reach until February 28, 2011.

TABLE 11

MAXIMUM AUTHORIZED CAPITAL
(in millions of dollars)

Capitalization period	Maximum capital	Capitalization period	Maximum capital
March 1, 2003 to February 29, 2004	375	March 1, 2007 to February 29, 2008	975
March 1, 2004 to February 28, 2005	525	March 1, 2008 to February 28, 2009	1 125
March 1, 2005 to February 28, 2006	675	March 1, 2009 to February 28, 2010	1 275
March 1, 2006 to February 28, 2007	825	March 1, 2010 to February 28, 2011	1 425

❑ Clarification concerning amounts giving entitlement to a tax credit

Currently, the tax legislation stipulates that the amount paid to purchase, as first purchaser, a Class "A" share of the Fonds de solidarité des travailleurs du Québec, a Class "A" or Class "B" share of Fondaction or a share of Capital régional et coopératif Desjardins, hereinafter called a "defined-class share," can give entitlement to a tax credit.

The wording of the legislative provisions regarding the granting of such tax credit recently raised questions as to its exact purport. More specifically, it was a matter of defining the scope of the expression "amount paid for the purchase of a share" as regards the expenses associated with a share purchase, such as the fees for opening an account with an investment corporation.

While the goal of the fiscal policy is to support capitalization of these investment corporations by granting their shareholders a tax credit solely in respect of the issue price paid for a defined-class share, and although the current application reflects this policy, it is not impossible, given the wording of the legislative provisions, that an individual may be able to receive a tax credit for certain expenses relating to the purchase of such share.

A declaratory clarification will therefore be made to the tax legislation to specify that the amount paid by an individual to purchase a defined-class share corresponds solely to the issue price paid in respect of that share.

❑ Non-deductibility of the cost of borrowing to purchase defined-class shares

Under the current tax legislation, a taxpayer is generally allowed to deduct an amount paid in accordance with a legal obligation to pay interest on a loan used to earn income from property.

However, there are exceptions to this rule, such as the non-deductibility of interest paid on a loan contracted to acquire assets that have been transferred to a registered retirement savings plan (RSSP).

In accordance with the current policies of the Fonds de solidarité des travailleurs du Québec, Fondaction and Capital régional et coopératif Desjardins, under which no dividends are paid - or deemed to have been paid - for defined-class shares, except those held by a trust governed by an RRSP, the interest paid on a loan used to purchase such shares does not entitle the borrower to any tax relief, since such shares are not purchased with a view to earning income - income or loss from property does not include capital gain or loss resulting from the disposition of the property.

Considering the tax assistance already provided for the purchase of defined-class shares in these investment corporations, and to account for the changes these corporations may make to their dividend policies, the tax legislation will be amended so that, as of the 2003 taxation year, an individual will not be allowed to deduct, in the calculation of his income, an amount paid in accordance with a legal obligation to pay interest on a loan used to purchase defined-class shares in any of these investment corporations.

1.8.2 Elimination of special tax benefits for accelerated depreciation of certain assets

Taxpayers who carry on a business in Québec can claim a deduction for depreciation of 100% of the capital cost of certain assets used in Québec, regardless of the half-year rule and the put-in-use rule generally applicable under the tax legislation.

Briefly, the assets that enable a taxpayer to claim this accelerated depreciation deduction are manufacturing or processing equipment, foreign ore processing equipment and universal electronic data processing equipment (computer hardware). Intangible assets, such as a patent, license, permit, know-how or trade secret, acquired as part of a technology transfer, also give rise to this deduction.

The Budget Speech delivered on March 14, 2000, temporarily extended the deduction for accelerated depreciation to optical fibre cables and coaxial cables acquired after that date and used in certain designated regions of Québec. The March 29, 2001 Budget Speech further extended the deduction to include certain microwave station equipment. In both cases, the equipment must, as a rule, be acquired before April 1, 2005.

In addition, taxpayers who carry on their business in part in Québec and in part outside Québec can claim an additional deduction equal to 20% of the deduction for depreciation claimed for such assets for a taxation year. The amount thus obtained, for a year, is then multiplied by the proportion, for such year, between the business done outside Québec by the taxpayer and the business done in Québec.

Lastly, the March 25, 1997 Budget Speech introduced a supplementary deduction of 25% for depreciation. Accordingly, taxpayers who acquire assets otherwise eligible for the accelerated depreciation deduction before April 1, 2005, can generally claim a supplementary deduction equal to 25% of the accelerated depreciation deduction claimed for a taxation year, thus bringing the total deduction to 125%. If a taxpayer does part of his business outside Québec during a taxation year, the amount of the supplementary deduction is divided by the proportion of his business done in Québec for that year, such that he derives full benefit from this supplementary deduction.

All of these Québec tax measures, including those that were intended to be permanent, are being eliminated for assets acquired after the day of this Budget Speech, except assets acquired after the day of this Budget Speech but no later than one year after that day, if:

— they are acquired in accordance with a written undertaking contracted no later than that day; or

— the construction of these assets, by the taxpayer or a partnership in which the taxpayer is a member, or on their behalf, was underway on that day.

1.8.3 Elimination of the reduced tax rate for savings and credit unions

Savings and credit unions currently benefit from a system of exceptions that allow them to pay a reduced rate on the income needed to establish a reserve known as a "maximum cumulative reserve." This reserve is equal to 5% of the total amount owed by the savings and credit union to one of its members and the amount of shares held by one of its members.

More specifically, a reduction of 3.15 percentage points in the tax rate applies as long as the cumulative earnings of the savings and credit union have not reached an amount equal to the amount of its maximum cumulative reserve.

This reduction in the tax rate is being abolished for taxation years ending on or after the day of this Budget Speech. However, for a taxation year that includes that date, the amount of this reduction will be calculated in proportion to the number of days of such taxation year preceding that date.

1.8.4 Introduction of a cap on deductible entertainment expenses

The deduction granted to taxpayers for food, beverage and entertainment expenses incurred for the purposes of earning business or property income (entertainment expenses) is generally limited to 50% of the related expenditures.

The ministère des Finances is concerned about the deduction for entertainment expenses because of the difficulties inherent in determining the amount of such expenses.

That is why, given the current budgetary context, the tax legislation will be amended to cap deductible entertainment expenses at an amount equal to 1% of the taxpayer's annual sales, relaxing the rules where necessary for sectors where such a ceiling is not realistic.

❑ Current situation

The current rules allow taxpayers to deduct, in calculating their income for a given taxation year, an amount equal to 50% of the entertainment expenses incurred during that year.

However, some entertainment expenses are exempt from the 50% limit, such as those relating to the cost of a subscription for specific cultural events that take place in Québec.

❑ 1% ceiling

Henceforth, the amount of entertainment expenses that can be deducted in calculating a taxpayer's business or property income for a taxation year will be limited to 1% of the taxpayer's sales for that year. However, those entertainment expenses that are currently exempt from the 50% limit will also be exempt from the new 1% ceiling.

Where a taxpayer carries on more than one business, the new ceiling will be calculated for each business.

In addition, where the income of a taxpayer for a taxation year is earned through a partnership, the 1% ceiling will apply to the partnership and be calculated in proportion to the partnership's sales for its fiscal year ending in that taxation year. Consequently, a taxpayer who is a member of a partnership may not deduct an amount of entertainment expenses from his partnership income other than the amount of entertainment expenses deducted in relation to that partnership.

For the purposes of calculating the 1% ceiling, a taxpayer's sales for a taxation year or a partnership's sales for a fiscal year correspond to their gross income for that taxation or fiscal year.

❑ Exceptions

• Regular travel

Certain economic fields, such as transportation, lead to higher entertainment expenses for people working in these fields owing to the regular travel required by their work. Such taxpayers would be heavily penalized by the 1% ceiling.

Consequently, this ceiling will not apply to expenditures incurred by a taxpayer, in the course of his business activities, for food and beverages consumed 40 kilometres or more away from the taxpayer's place of business, provided these activities are normally carried out in a place that is that far from the taxpayer's place of business.

- **Sales agencies**

To sell their inventory, businesses sometimes hire specialized commercial undertakings that offer such intermediary services (sales agencies).

For example, a manufacturing company can either sell its products itself or use the services of a sales agency, which will find markets for the company's products in return for a commission.

Where the services of a sales agency are used, the 1% ceiling is determined in proportion to the commissions calculated as a percentage of the sales made by the agency. Where a manufacturing company sells its products itself, the ceiling is determined in proportion to the company's total sales. Yet the same sales effort is involved in both cases.

To ensure fairness, the 1% ceiling must apply to the same factor in both instances. Consequently, it will be calculated in relation to the portion of a sales agency's annual sales consisting of commissions, using the following formula:

$$1\% \times \frac{\text{amount of the commission}}{\text{percentage of this commission}}$$

For greater clarity, the above formula will apply only to taxpayers who carry on a sales agency-type of business, i.e. a business that is involved only in the sale of inventory. A real estate agent, for example, must calculate the 1% ceiling on his sales, even though the latter consists of commissions.

❑ Date of application

These changes will apply in respect of a taxation year, in the case of a taxpayer, or a fiscal year, in the case of a partnership, ending after the day of this Budget Speech.

However, where a taxation or fiscal year includes the day of this Budget Speech, these changes will apply in respect of entertainment expenses and sales, both of which will be calculated in proportion to the number of days of the taxation or fiscal year following that date.

1.8.5 Removal of specialized manufacturing equipment under various refundable tax credits granted in certain regions

In recent years, three refundable tax credits were introduced to encourage job creation in the resource regions of Québec: the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec, and the refundable tax credit for the Vallée de l'aluminium.

In short, these refundable tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of the target regions regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business in respect of which Investissement Québec has issued an eligibility certificate and whose activities target the manufacturing and processing sectors in particular.

In line with the government's tightening of all fiscal measures, the notion of certified business will be changed for the purposes of these three tax credits.

❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of Québec's resource regions regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business in respect of which Investissement Québec has issued an eligibility certificate and whose activities concern, in particular, the secondary or tertiary processing of wood or metals, production of non-conventional energy or aquaculture.

• Tightening of the definition of certified business

The definition of certified business will be changed to exclude businesses whose activities consist in:

— manufacturing specialized equipment for timber harvesting or wood processing;

— manufacturing specialized equipment for manufacturing paper or cardboard;

— manufacturing specialized equipment for mining or metal processing;

— manufacturing specialized equipment for energy production or use;

— manufacturing specialized equipment for freshwater aquaculture.

The definition of certified business will also exclude installation and commercialization activities incidental to these activities.

This change will apply as of the day of this Budget Speech.

However, eligible corporations in respect of which an eligibility certificate has been issued for the above activities before the day of this Budget Speech are entitled to the tax credit for calendar year 2003.

Similarly, a corporation carrying on activities targeted by this change and for which the corporation has applied, in writing, to Investissement Québec for an eligibility certificate before the day of this Budget Speech will also be entitled to the refundable tax credit for calendar year 2003, provided it also satisfies the other eligibility conditions. To be considered, the application must include the supporting documents necessary to ascertain the corporation's eligibility.

Furthermore, Investissement Québec may, in exceptional cases, issue an eligibility certificate to a corporation for the activities targeted by this change, even if the application for such certificate was submitted on the day of this Budget Speech or before January 1, 2004.

Accordingly, a corporation may obtain an eligibility certificate for these activities where it is the product of a corporate reorganization, following a merger for instance, if one of the replaced corporations was eligible for the tax credit and carried on targeted activities. Similarly, a parent corporation that winds up a wholly owned eligible corporation carrying on targeted activities may obtain an eligibility certificate. In both of these cases, the eligibility certificate will be issued for calendar year 2003 only.

❑ Refundable tax credit for Gaspésie and certain maritime regions of Québec

The tax legislation also provides for a refundable tax credit for Gaspésie and certain maritime regions of Québec that is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie—Îles-de-la-Madeleine, Côte-Nord and Bas-Saint-Laurent and in the Matane RCM, regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business in respect of which Investissement Québec has issued an eligibility certificate and whose activities involve, in particular, the manufacturing of specialized equipment for the production of wind power, the manufacturing of specialized equipment for mariculture and installation and commercialization activities incidental to these activities.

Like the change made to the refundable tax credit for processing activities in the resource regions, the notion of certified business will be changed according to the same rules as those for the refundable tax credit for processing activities in the resource regions.

For greater clarity, the definition of certified business will be changed to exclude businesses whose activities involve the manufacturing of specialized equipment for the production of wind power and the manufacturing of specialized equipment for mariculture.

The definition of certified business will also exclude installation and commercialization activities incidental to these activities.

This change will apply as of the day of this Budget Speech.

❑ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay—Lac-Saint-Jean administrative region regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business in respect of which Investissement Québec has issued an eligibility certificate and whose activities involve, in particular, the manufacturing of specialized equipment for aluminum production or aluminum processing businesses and installation and commercialization activities incidental to these activities.

Like the change made to the refundable tax credit for processing activities in the resource regions and the refundable tax credit for Gaspésie and certain maritime regions of Québec, the notion of certified business will be changed according to the same rules as those for the refundable tax credit for processing activities in the resource regions.

For greater clarity, the definition of certified business will be changed to exclude businesses whose activities consist in manufacturing specialized equipment for aluminum production or aluminum processing businesses and installation and commercialization activities incidental to these activities.

This change will apply as of the day of this Budget Speech.

1.9 Measures concerning the tax on capital

A corporation that has an establishment in Québec at any time in a taxation year is subject to the tax on capital, calculated on the basis of the paid-up capital shown in its financial statements for the year, prepared in accordance with generally accepted accounting principles.

The rate applicable to paid-up capital and the method of calculating the latter are different depending on whether the corporation is a financial institution or a corporation that is not a financial institution.

In general, the paid-up capital of a corporation that is not a financial institution is obtained by adding most of the amounts shown in the "shareholders' equity" and "long-term liabilities" sections of the balance sheet. To avoid double taxation, paid-up capital is reduced regarding investments made in other corporations and a deduction is allowed for certain items. The current tax rate applied to such paid-up capital is 0.6%.

The tax on capital applicable to financial institutions is calculated on a different basis than that of other corporations. This distinction is essentially attributable to the fact that it would not be appropriate to tax certain liabilities of financial institutions, chiefly deposits. The current tax rate applied to the paid-up capital of such institutions is 1.2%.

1.9.1 Suspension of the reduction in the rates of the tax on capital and more significant increase in the deduction of $250 000 in paid-up capital

A reduction in the rate of the tax on capital was announced in the November 1, 2001 Budget Speech, along with a deduction of $1 million in the calculation of paid-up capital.

The current measures provide for gradual implementation of the reduction in capital tax rates and the deduction of $1 million in the calculation of paid-up capital. More specifically, the rate reduction was to be implemented on January 1 of each year from 2003 to 2007, while the deduction of $1 million in the calculation of paid-up capital was to be implemented from 2003 to 2006.

The reductions in the rates of the tax on capital that were to become effective on January 1, 2004, are being suspended in accordance with the terms defined below.

The deduction of $1 million in the calculation of paid-up capital, which is currently $250 000 and was to be raised to $500 000 on January 1, 2004, will be increased to $600 000 on January 1, 2004, in accordance with the terms defined below. The increases that were to be implemented in 2005 and 2006, are being suspended.

❑ Suspension of the reduction in the rates of the tax on capital

- **Rate of the tax on capital of corporations that are not financial institutions**

The rate of the tax on capital of corporations that are not financial institutions was to be gradually reduced from the initial rate of 0.64% to 0.3%.

As indicated above, the reduction in the rate of tax on capital was to have been granted gradually, on January 1 of each year from 2003 to 2007. As the first reduction applied starting January 1, 2003, the rate of the tax on capital of corporations that are not financial institutions fell from 0.64% to 0.6% as of that date.

However, no further reductions will be applied in calendar year 2004 and the calendar years thereafter. The rate of the tax on capital of these corporations will therefore remain at 0.6%.

- **Rate of the tax on capital of financial institutions**

The rate of the tax on capital of financial institutions was to be gradually reduced from the initial rate of 1.28% to 0.6%. The corporations covered by this reduction were banks, savings and credit unions, loan companies, trust companies and corporations that trade in securities.

As indicated above, the reduction in the rate of tax on capital was to have been granted gradually, on January 1 of each year from 2003 to 2007. As the first reduction applied starting January 1, 2003, the rate of the tax on capital of financial institutions fell from 1.28% to 1.2% as of that date.

However, no further reduction will be applied in calendar year 2004 and the calendar years thereafter. The rate of the tax on capital of financial institutions will therefore remain at 1.2%.

❑ More significant increase in deduction of $250 000 in paid-up capital

To further reduce the burden of the tax on capital of corporations, the latter may claim, in addition to the rate reductions indicated above, a deduction in the calculation of their paid-up capital that was to eventually reach $1 million.

However, a financial institution or a corporation exempt from income tax but subject to payment of the tax on capital, for a taxation year, may not claim this deduction for such taxation year. Similarly, corporations governed by an act establishing a labour-sponsored fund, as well as Capital régional et coopératif Desjardins, may not claim this new deduction in calculating their paid-up capital.

- **Maximum deductions**

As indicated above, this deduction was to have been granted gradually on January 1 of each year from 2003 to 2006. The first segment of the deduction, in the amount of $250 000, applied starting January 1, 2003.

This deduction, which was to be $500 000 starting January 1, 2004, will be increased to $600 000 in calendar year 2004 and subsequent years.

- **Reduction of the maximum deduction depending on size**

This maximum deduction was initially designed to reduce the burden of the tax on capital on small corporations. Accordingly, to ensure that this deduction first applies to such corporations, the maximum deduction a corporation may claim was to have been reduced linearly during the first three years of its original implementation period, namely 2003 to 2005.

Briefly, this reduction of the maximum deduction, for a given taxation year, amounts to one dollar for each three dollars by which the paid-up capital of a corporation determined for the preceding taxation year exceeds the maximum deduction such corporation could otherwise claim for the given taxation year. Accordingly, the maximum deduction is partially reduced if such paid-up capital is between the amount of such maximum deduction and four times the amount of such maximum deduction.

The reduction of the maximum deduction depending on size will be maintained. Accordingly, the maximum deduction will be partially reduced in calendar year 2004 and subsequent years where the paid-up capital is between $600 000 and $2 400 000.

For greater clarity, the special calculation rules applicable to a taxation year of a corporation that overlaps two calendar years will continue to apply.

- **Corporations previously entitled to a tax exemption**

Corporations governed by an act establishing a labour-sponsored fund, as well as Capital régional et coopératif Desjardins, i.e. corporations subject to income tax[67] and the tax on capital, but that previously enjoyed a tax exemption, could not, for that reason, claim this deduction in calculating their paid-up capital.

Given that these corporations will no longer be able to claim this tax exemption, they will henceforth be allowed to claim the deduction in calculating their paid-up capital, according to the same terms and conditions as those that apply to other corporations, including in relation to calendar year 2003.

❑ Other application details

The changes indicated above will not affect the other application details of these measures. For example, the members of a group of associated corporations will have to share, in accordance with the original terms and conditions, the maximum $600 000 deduction in calculating the paid-up capital of a corporation.

67 See subsection 1.8.1.

For greater clarity, the tax instalments of a corporation for a taxation year that includes the day of this Budget Speech and overlaps calendar years 2003 and 2004 will have to be adjusted, according to the usual rules, as of the first instalment following that day, in order to take the impact of these changes into account.

1.9.2 Elimination of the two-year tax holiday from tax on capital

The Budget Speech delivered on March 25, 1997, introduced a holiday from tax on capital in respect of new investments in certain sectors.

This holiday from tax on capital takes the form of a deduction in the calculation of the paid-up capital of a corporation that is not a financial institution based on eligible acquisition expenses incurred by that corporation in respect of an eligible asset.

A corporation may claim this deduction in respect of eligible acquisition expenses it incurs in a taxation year, for the taxation year during which these expenses were incurred and for the subsequent taxation year.

Briefly, the assets eligible for the purposes of this holiday from tax on capital are manufacturing or processing equipment, foreign ore processing equipment, computer hardware, buildings used in manufacturing or processing activities, buildings used in foreign ore processing activities, and buildings used in eligible activities relating to the tourism sector.

However, these assets must be acquired by a corporation or a partnership, where applicable, before April 1, 2005, subject to the transitional periods provided for in the tax legislation.

This holiday from tax on capital will be eliminated for assets acquired after the day of this Budget Speech, except assets acquired after the day of this Budget Speech but no later than one year after that day, if:

— they are acquired in accordance with a written undertaking contracted no later than that day; or

— the construction of these assets by the corporation or the partnership, where applicable, or on their behalf, was underway on that day.

1.9.3 Elimination of the deduction in the paid-up capital of savings and credit unions

Savings and credit unions became subject to the tax on capital under measures announced in the May 9, 1996 Budget Speech. However, they were granted a basic deduction of $300 000 in calculating their paid-up capital.

This basic deduction is being eliminated with respect to the taxation years ending on or after the day of this Budget Speech. However, for a taxation year that includes that date, the amount of the deduction will be calculated in proportion to the number of days of such taxation year preceding that date.

1.9.4 Elimination of the deduction in the paid-up capital of certain financial institutions

The March 31, 1998 Budget Speech introduced a deduction in the calculation of the paid-up capital of certain financial institutions.

More specifically, a bank may deduct, in calculating its paid-up capital for a taxation year, an amount equal to $500 million if its world assets for the preceding taxation year were less than $100 billion.

This measure is being eliminated with respect to the taxation years ending on or after the day of this Budget Speech. However, for a taxation year that includes that date, the amount of the deduction will be calculated in proportion to the number of days of such taxation year preceding that date.

2. OTHER FISCAL MEASURES

2.1 Clarification concerning the control of a corporation for the purposes of a refundable Québec tax credit

Some corporations, because of their particular status or the fiscal policy objectives, were specifically excluded from all of the refundable Québec tax credit. In fact, public corporations, corporations controlled by persons not residing in Québec and tax-exempt corporations are, as a matter of course, excluded from refundable Québec tax credits.

Moreover, a corporation controlled by an excluded corporation is in turn sometimes excluded. Thus, in order to determine a corporation's eligibility for a given refundable tax credit, it is sometimes necessary to determine who controls that corporation. However, the existing tax legislation contains no specific rules in this regard.

When determining the control of a corporation for the purposes of a given refundable tax credit, a partnership's holding shares in that corporation can lead to undesirable results, in fiscal policy terms, where the control established according to the current rules is not representative of the actual economic weight of the members of the partnership.

This is particularly the case where the control of a corporation whose shares are owned by a limited partnership is attributed to the general partner of that limited partnership, regardless of the economic influence of each of the limited partners.

The current tax legislation contains a rule that offers a solution to this type of problem. Under the rules regarding association, where the shares of a corporation are owned by a partnership, the partnership is considered to be transparent and the shares are deemed to be owned by the members of the partnership, in proportion to their respective share of the income or loss of the partnership.

Essentially, the rules regarding association allow corporations forming one and the same economic group (associated corporations) to be considered as one entity in order to avoid, in particular, multiple tax benefits within a group of corporations. However, the presumption of transparency of a partnership when determining the control of a corporation in order to ascertain eligibility for a refundable tax credit would ensure that qualification more accurately reflects the economic reality.

Consequently, the tax legislation will be amended to stipulate that, for the purposes of determining the eligibility of a corporation for the refundable Québec tax credits on a given date, the shares of a corporation owned by a partnership will be deemed to be owned by each member of that partnership, in proportion to the distribution among them of the income or loss of the partnership for the fiscal year that includes that date.

By applying the above rule, collective holding alone will be sufficient to attribute control of a corporation to a combination of members of a partnership deemed to hold more than 50% of the shares of such corporation, where such members are persons or corporations excluded from the refundable tax credit for which control is being determined, without the need to show that such persons are acting in concert.

For example, where a partnership that consists of three members (two of which are public corporations) sharing equally in the income or loss of the partnership[68] holds all of the shares of a given corporation, such corporation will henceforth be deemed to be controlled by a combination of public corporations for the purposes of the refundable Québec tax credits.

Moreover, pro rata allocation will apply where, for the purposes of determining de facto control of a corporation on a given date, control is attributed to a partnership. In such case, this partnership will be considered as a corporation all of whose voting shares belong to the members of the partnership on that date, in proportion to the distribution among them of the income or loss of the partnership for the fiscal year that includes that date.

By applying the above rule, collective holding alone will be sufficient to attribute control of the partnership to a combination of members of that partnership deemed to hold more than 50% of the shares, where such members are persons or corporations excluded from the refundable tax credit for which control is being determined. Thus, this member or combination of members will be deemed to control in fact the corporation in respect of which control is being determined for the purposes of the given refundable tax credit.

For example, where a partnership that consists of five members (three of which are tax-exempt corporations) sharing equally in the income or loss of the partnership[69] controls in fact a corporation, such corporation will henceforth be deemed to be controlled in fact by a combination of tax-exempt corporations for the purposes of the refundable Québec tax credits

These changes will apply to a taxation year of a corporation beginning after the day of this Budget Speech.

68 33⅓% each

69 20% each

Consequently, the tax legislation will be amended to stipulate that, for the purposes of determining the eligibility of a corporation for the refundable Québec tax credits on a given date, the shares of a corporation owned by a partnership will be deemed to be owned by each member of that partnership, in proportion to the distribution among them of the income or loss of the partnership for the fiscal year that includes that date.

By applying the above rule, collective holding alone will be sufficient to attribute control of a corporation to a combination of members of a partnership deemed to hold more than 50% of the shares of such corporation, where such members are persons or corporations excluded from the refundable tax credit for which control is being determined, without the need to show that such persons are acting in concert.

For example, where a partnership that consists of three members (two of which are public corporations) sharing equally in the income or loss of the partnership[68] holds all of the shares of a given corporation, such corporation will henceforth be deemed to be controlled by a combination of public corporations for the purposes of the refundable Québec tax credits.

Moreover, pro rata allocation will apply where, for the purposes of determining de facto control of a corporation on a given date, control is attributed to a partnership. In such case, this partnership will be considered as a corporation all of whose voting shares belong to the members of the partnership on that date, in proportion to the distribution among them of the income or loss of the partnership for the fiscal year that includes that date.

By applying the above rule, collective holding alone will be sufficient to attribute control of the partnership to a combination of members of that partnership deemed to hold more than 50% of the shares, where such members are persons or corporations excluded from the refundable tax credit for which control is being determined. Thus, this member or combination of members will be deemed to control in fact the corporation in respect of which control is being determined for the purposes of the given refundable tax credit.

For example, where a partnership that consists of five members (three of which are tax-exempt corporations) sharing equally in the income or loss of the partnership[69] controls in fact a corporation, such corporation will henceforth be deemed to be controlled in fact by a combination of tax-exempt corporations for the purposes of the refundable Québec tax credits.

These changes will apply to a taxation year of a corporation beginning after the day of this Budget Speech.

68 33⅓% each.

69 20% each.

2.2 Changes to certain refundable tax credits granted in certain regions

In recent years, three refundable tax credits were introduced to encourage job creation in Québec's resource regions: the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium, hereinafter called the "regions tax credits."

The regions tax credits target specific activities, particularly in the manufacturing and processing sectors. However, although the application of these tax credits is identical, they are deemed to be independent and distinct since the activities they target are specific to certain regions.

In short, the regions tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of the target regions regarding five consecutive calendar years.

To be eligible, a corporation must carry on a certified business, i.e. a business in respect of which Investissement Québec has issued an eligibility certificate. In addition, a corporation that carries on more than one certified business must obtain an eligibility certificate for each business, and the increase in payroll is determined on a business-by-business basis.

To make it easier to manage these fiscal measures while ensuring that the regions tax credits will actually be granted for targeted activities, changes will be made to the term of eligibility certificates and the notion of eligible employee.

In addition, to mitigate the impacts arising, in particular, from the transfer of employees from one certified business to another, the terms and conditions for issuing eligibility certificates and calculating the regions tax credits will be changed in specific cases where a corporation carries on more than one certified business or is eligible for more than one of these tax credits.

❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of Québec's resource regions regarding five consecutive calendar years.

To calculate its refundable tax credit for a given calendar year, an eligible corporation must compare the payroll of that calendar year with its reference calendar year. Its reference calendar year is the calendar year preceding that in which the corporation began carrying on a certified business, i.e. a business in respect of which an eligibility certificate was issued by Investissement Québec.

- **Eligibility certificate**

Under the present terms and conditions, a corporation that carries on more than one certified business must obtain an eligibility certificate for each of these businesses for the purposes of the tax credit for processing activities in the resource regions. A corporation that carries on more than one certified business must also obtain an eligibility certificate for each of these businesses for the purposes of the regions tax credits. The expiry date of each eligibility certificate is determined separately for each certified business.

Currently, a corporation may obtain an eligibility certificate for a business that is a continuation of a certified business or part of a certified business for which an eligibility certificate has been issued in the past. The expiry date of the eligibility certificate is determined by considering the reference calendar year for the first certificate. In such case, the rules pertaining to business continuations apply in order to adjust the amount of the increase in payroll of the eligible corporation which thus continues to operate a business previously operated by another corporation.

An eligible corporation that holds more than one certificate can temporarily cease to operate a certified business or part of such a business, and assign eligible employees to another certified business that it operates. Under existing terms and conditions, the rules pertaining to business continuations do not apply in such cases because the certified businesses are operated by the same corporation.

To ensure greater standardization in the terms and conditions for issuing eligibility certificates in the case of business continuations where a corporation holding an eligibility certificate for a certified business applies for another eligibility certificate, the expiry date of the second eligibility certificate will be determined, for the purposes of any of the regions tax credits, on the basis of the reference calendar year for the first certificate issued to the eligible corporation.

In addition, if an eligible corporation holds more than one eligibility certificate for the purposes of one or more of the regions tax credits and the reference calendar year for one of the certificates is different from the reference calendar year for another certificate, the corporation must, as of the 2003 calendar year, consider only one reference calendar year for the purposes of all tax credits concerned. This reference calendar year will be the one that appears on the first eligibility certificate issued to the eligible corporation. Where applicable, Investissement Québec will issue a new eligibility certificate to confirm the change in the reference calendar year.

In addition, under the current terms and conditions, the eligibility certificate issued to the eligible corporation is considered valid for the corporation's entire eligibility period.

However, the activities of the certified business operated by the eligible corporation may change over the eligibility period, such that the information appearing on the eligibility certificate is no longer accurate.

To ensure that the eligibility certificate reflects the activities carried out in a given calendar year, a corporation will henceforth be required to obtain an annual eligibility certificate for its certified business. A provisional certificate may be issued by Investissement Québec during the year, but it will have to be replaced by a final certificate at the end of the year. This certificate will have to be enclosed with the eligible corporation's income tax return for the year.

These changes will apply as of the 2003 calendar year.

- **Eligible employee**

Briefly, an eligible employee, for a period included in a calendar year, means an employee at least 75% of whose duties are devoted to undertaking, supervising or directly supporting the activities of a certified business carried on by an eligible corporation.

However, a corporation may work in several sectors of activity, and the number of employees assigned to each of these activities may vary from year to year. Therefore, in order to ensure that the tax credit is effectively granted in respect of the target activities, a change will be made to the notion of eligible employee.

More specifically, an eligible corporation must henceforth obtain an annual eligibility certificate from Investissement Québec stating that an employee has satisfied the eligibility conditions concerning the nature of that employee's duties for a given calendar year. An annual eligibility certificate must also be issued for an employee who satisfies the same eligibility conditions for the reference calendar year, thereby confirming that at least 75% of the employee's duties are devoted to undertaking, supervising or directly supporting the activities of the certified business carried on by the eligible corporation.

According to the conditions initially stipulated, the ministère du Revenu du Québec (MRQ) was responsible for determining whether a given employee qualified as an eligible employee. Due to the change made, this responsibility will henceforth be assumed by Investissement Québec, which must thus ensure that the eligibility criteria relating to the employee's duties have been met.

However, in order to maintain the integrity of the measure, the MRQ may continue to consult Investissement Québec to learn whether an employee has qualified as an eligible employee, in particular where the eligible corporation carries on, in an establishment located outside the target region, a business whose activities are related to the activities targeted by the tax credit.

Moreover, to enable Investissement Québec to effectively assume its role, the MRQ may forward, where applicable, any relevant information, in particular in respect of a corporate reorganization.

Also, to be entitled to the tax credit, in respect of a calendar year, an eligible corporation must enclose with its tax return filed for the taxation year in which this calendar year ends, a copy of the certificates issued by Investissement Québec in relation to its eligible employees.

In addition, as mentioned above, the eligibility of an employee is determined for a period included in a calendar year. Since this notion of period is not currently specified, confusion may arise as to the need to use, for a given calendar year, the same period as that used for the reference calendar year. For example, an eligible corporation could choose to determine the eligibility of an employee on a weekly basis for a given calendar year, and on a yearly basis for the reference calendar year.

To avoid any ambiguity in this regard, the definition of eligible employee will be clarified to indicate that the notion of period used therein refers to a pay period.

These changes will apply as of the 2003 calendar year.

- **Calculation of the tax credit**

Under the current calculation method, when an eligible corporation carries on more than one business in respect of which eligibility certificates have been issued, each certified business constitutes a separate business for the purposes of the tax credit. Accordingly, the increase in payroll is calculated for each separate business.

Similarly, when an eligible corporation receives more than one tax credit, it must calculate the increase in payroll separately for each of these tax credits.

Thus, according to this method, a reduction in payroll of one certified business does not affect the increase in payroll of another certified business, even if this increase is attributable to the transfer of the activities from one certified business to another. Therefore, for an identical payroll, a corporation that carries on two certified businesses could obtain more tax assistance, in the form of the regions tax credits, than a corporation that carries on only one certified business.

Under the current calculation method, the reduction in payroll in respect of one tax credit does not affect any of the other tax credits, because the increase is calculated for each separate certified business and tax credit.

In order to rectify this situation, the calculation method used for this tax credit will be changed so that from now on, when an eligible corporation carries on several businesses in respect of which eligibility certificates have been issued, these certified businesses will constitute a single certified business for the purposes of this tax credit. Accordingly, the increase in payroll will be calculated for all certified businesses carried on by an eligible corporation.

Similarly, where a corporation is eligible for more than one tax credit, it must calculate the increase in payroll for all certified businesses for the purposes of the regions tax credits.

These changes will apply as of the 2003 calendar year.

❑ Refundable tax credit for Gaspésie and certain maritime regions of Québec

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie—Îles-de-la-Madeleine, Côte-Nord and Bas-Saint-Laurent and in the Matane RCM, regarding five consecutive calendar years.

Like the changes made to the refundable tax credit for processing activities in the resource regions, the method used to issue eligibility certificates and calculate the tax credit and the notion of eligible employee will be changed according to the same rules as those for the refundable tax credit for processing activities in the resource regions.

These changes will apply as of the 2003 calendar year.

❑ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium is granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay—Lac-Saint-Jean administrative region, regarding five consecutive calendar years.

Like the changes made to the refundable tax credit for processing activities in the resource regions and the refundable tax credit for Gaspésie and certain maritime regions of Québec, the method used to issue eligibility certificates and calculate the tax credit and the notion of eligible employee will be changed according to the same rules as those for the refundable tax credit for processing activities in the resource regions.

These changes will apply as of the 2003 calendar year.

2.3 Clarification concerning the notion of eligible employee for the purposes of various refundable tax credits

Some refundable tax credits stipulated in Québec's tax system are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the eligible region or in the designated site covered by these tax credits.

In such situations, an eligible corporation must, to determine its refundable tax credit for a given calendar year, compare the payroll for such given calendar year with that of its reference calendar year.

Briefly, an eligible employee, for a period included in a calendar year, means an employee at least 90% of whose duties are devoted to undertaking, supervising or directly supporting the activities of the certified business carried on by the eligible corporation.

Like the clarification made to the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium, the notion of eligible employee will be clarified so that for the purposes of the tax credits mentioned below, the notion used therein refers to a pay period.

This clarification will apply as of calendar year 2003, to the following refundable tax credits:

— the tax credit for job creation in the optics industry in the Québec City region;

— the tax credit for job creation in the manufacturing or environmental sector in the Technopôle Angus;

— the tax credit for e-business activities carried out in certain designated sites;

— the tax credit for biotechnology development in certain designated sites;

— the tax credit for nutraceuticals and functional foods;

— the tax credit for innovation centres.

2.4 Streamlining in relation to the temporary absence of an employee whose remuneration is normally eligible for tax assistance

Québec's tax legislation includes a number of measures concerning the carrying out of certain activities. These fiscal measures consist of tax credits based on salaries paid, tax credits based on the increase in payroll, or tax holidays granted to an employee.

In all these cases, the tax assistance is tied to activities carried out by the employee. Many of these fiscal measures require the issuing of a certificate by an organization other than the MRQ. In this case, a number of criteria must generally be satisfied before the organization will issue the certificate, some of which bear on the duties of the employee. For instance, the percentage of time devoted to carrying out certain activities, the place where such activities are carried out and the type of business as part of which they are carried out are factors that can be taken into consideration in the decision whether or not to issue the certificate.

In addition, such factors can be taken up directly in the *Taxation Act* (TA) when it is a matter of determining the remuneration paid to an employee who is eligible for a fiscal measure, regardless of the fact that an organization other than the MRQ has taken these factors into consideration for issuing a certificate or that the fiscal measure does not require a certificate to be issued by an organization other than the MRQ.

The application of these criteria can cause problems in certain specific cases. It sometimes happens that an employee receives remuneration from his employer when he is temporarily absent from work for reasons that are considered reasonable, such as sickness or maternity leave.

Accordingly, it may prove difficult for an organization that must issue a certificate to establish how these criteria must be applied regarding such a paid period of absence.

Furthermore, the tax treatment of this type of situation in terms of the TA may vary substantially from one fiscal measure to another, simply because of the fact that their wording differs. The various fiscal measures were initially designed to meet their objective and not to stipulate the treatment of every exceptional case such as an employee who is temporarily absent. The treatment of such situations should not differ from one fiscal measure to another, since the fiscal policy regarding such situations should normally be the same.

Thus, according to the existing rules, it is possible that because of the administrative criteria applied by an organization other than the MRQ, or because of the provisions of the TA, tax assistance may not be provided in relation to the remuneration paid during a temporary period of absence of the employee, regardless of the reasons for such absence. In such cases, an employer, an employee, or even both, cannot receive tax assistance, though in fact the remuneration paid, or a portion thereof, during such temporary period, is tied to the duties that are normally eligible for such tax assistance.

Accordingly, an employer pays remuneration tied to an activity covered by a fiscal measure but cannot receive the associated tax assistance. Similarly, an employee receives remuneration tied to an activity covered by a fiscal measure but cannot receive the associated tax holiday.

In this context, fiscal policy will be streamlined to allow, in certain circumstances, tax assistance to be available in the case where an employee receives remuneration from his employer when he must be temporarily absent from work for reasons considered reasonable, such as sickness or maternity leave. On the other hand, and for illustration purposes only, an employee who receives remuneration from his employer while absent from work because he is using up his sick leave prior to retirement would not, for the purposes of this streamlining measure, be considered absent from work for reasons considered reasonable.

Accordingly, organizations other than the MRQ with responsibility for issuing the certificates necessary to allow an employer or an employee to benefit from a fiscal measure relating to remuneration, may adapt their criteria to such special situations.

Similarly, the TA will be amended to grant the Minister of Revenue discretionary power to consider the remuneration, or a portion of such remuneration, eligible for a fiscal measure in such cases, even if that is not allowed by the provisions specifically applicable to the fiscal measure.

These streamlining measures will apply in relation to certificates issued after the day of this Budget Speech and to assessments issued after that day.

3. MEASURES ANNOUNCED IN THE MARCH 11, 2003 BUDGET SPEECH

On March 11, 2003, the 2003-2004 edition of the budget document *Additional Information on the Budgetary Measures* was tabled before the National Assembly. The first section of the document detailed the various fiscal measures that would be incorporated into Québec tax legislation and regulations further to the Budget Speech.

Given the current budgetary situation, certain measures announced at that time will not be incorporated into the tax legislation or regulations, whereas others will be incorporated on a transitional basis for the sole purpose of enabling taxpayers to obtain the tax assistance they were counting on when, on the strength of the budgetary statements, they made business commitments or decisions.

On the other hand, the measures concerning fiscal administration will be incorporated into the tax legislation and regulations, as will the measures aimed at ensuring the integrity or improving the consistency of the taxation system.

This section presents the government's position on each of the measures announced on March 11, 2003 and, where applicable, gives the related application details.

3.1 Measures concerning individuals

3.1.1 New tax credit for caregivers (measure 1.1)[70]

It was announced that, as of the 2003 taxation year, the refundable tax credit respecting the housing of a parent (in line of ascent) would be raised from $550 to $600 and transformed into a refundable tax credit for caregivers so that people living with a spouse or a close relative who has a severe and prolonged mental or physical impairment could also obtain tax assistance.

The refundable tax credit respecting the housing of a parent (in line of ascent) will not be transformed into a refundable tax credit for caregivers, and its value will be maintained at $550.

Consequently, for 2003 and subsequent taxation years, the tax credit respecting the housing of a parent will be granted in accordance with the terms and conditions that were applicable for the 2002 taxation year.

70 The references in parentheses correspond to the number of the measure announced in section 1 of the budget document *Additional Information on the Budgetary Measures* tabled before the National Assembly on March 11, 2003.

3.1.2 Introduction of a refundable tax credit for maternity or adoption leave taken by self-employed workers (measure 1.2)

The measure concerning the introduction of a refundable tax credit for maternity or adoption leave taken by self-employed workers will not be incorporated into the tax legislation.

However, taxpayers who, on the basis of the budgetary statements relative to this measure, reduced accordingly the amount of their instalments payable no later than March 15 and June 15, 2003, will not have to pay more interest - 10% additional annual interest included - than they would have had to pay had the measure respecting the refundable tax credit for maternity or adoption leave taken by self-employed workers been incorporated into the tax legislation.

3.1.3 Introduction of a refundable tax credit for new graduates working in a remote resource region (measure 1.3)

It was announced that new graduates who took up an eligible job in a remote resource region after March 11, 2003 would be able to claim, subject to certain conditions, tax assistance in the form of a refundable tax credit of up to $8 000.

This measure will apply only to individuals who, after March 11, 2003, take up an eligible job for which they were hired no later than the day of this Budget Speech, as the tax assistance announced may have been a determining factor in their decision to settle or remain in a remote region.

More specifically, this measure will be incorporated into the tax legislation in accordance with the terms and conditions specified on March 11, 2003, but only the income from an eligible job for which an individual was hired no later than the day of this Budget Speech may be taken into account in determining his or her eligible salary.

For greater clarity, where, at any time, an employer is replaced by another employer following the formation or winding-up of a legal person or the acquisition of a major portion of the property of a business or separate part of a business, and where there is no interruption in the services provided by an individual who, immediately before that time, held an eligible job with the previous employer, the individual will be deemed not to have started a new job at that time.

3.1.4 Increase in the tax assistance granted to residents of remote resource regions regarding interest paid on a student loan (measure 1.4)

It was announced that the terms and conditions for calculating the tax credit regarding interest paid on a student loan would be modified as of the 2003 taxation year so as to double the financial assistance granted with regard to the interest paid on a student loan during each of the years the young graduates lived in a remote region.

This measure will not be incorporated into the tax legislation.

3.1.5 Introduction of tax relief for employee transit passes (measure 1.5)

Tax relief measures were announced to encourage employees using public transit to commute to work on a regular basis. Those measures, designed to make the benefits stemming from the reimbursement or granting of a transit pass by an employer non-taxable and to enable employees to deduct the cost of their monthly passes, will not be incorporated into the tax legislation.

However, employers that, on the basis of the budgetary statements relative to the non-taxation of benefits granted to employees, withheld an amount less than the prescribed amount for income tax purposes or as contributions to the Québec Pension Plan (QPP) from the remuneration of their employees for a given pay period ending on or before the day of this Budget Speech, will not have to pay interest or a penalty, with respect to the portion of the prescribed amount attributable to such benefits, for having failed to withhold the full amount.

Under the current tax legislation, where the value of a taxable benefit granted to an employee is not taken into account by an employer for the purpose of calculating QPP contributions and the contribution to the Health Services Fund (HSF) for a given pay period, the employer becomes a debtor to the government, as of the day by which the source deductions and employer contributions for that pay period must be remitted, for the additional amount that would have been withheld as employee QPP contributions and payable as employer contributions to the QPP and the HSF had the value of the taxable benefit been taken into account. The additional amount bears interest from the day on which it is payable to the day on which it is paid, and any delay in paying the amount can result in the application of a penalty.

To ensure that an employer having acted on the strength of the budgetary statements does not end up having to pay interest or a penalty for failure to remit, to the Minister of Revenue, an additional amount that should have been paid as employee QPP contributions and employer contributions to the QPP and the HSF on a public transit-related benefit regarding a pay period ending on or before the day of this Budget Speech, the additional amount will be deemed to be payable only as of the day by which the employer is required to remit the source deductions and employer contributions for the first pay period beginning after the day of this Budget Speech.

Moreover, rules similar to those governing employers that do not deduct the prescribed amount of QPP contributions from an employee's remuneration will be introduced to allow employers to deduct, from the employee's subsequent remuneration, the portion of the additional amount they will be required to pay respecting the employee's QPP contributions.

3.1.6 Increase in the medical expenses deductible for dependants (measure 1.6)

The measure modifying the terms and conditions for calculating the non-refundable tax credit for medical expenses, where the expenses are paid for a dependant, will be incorporated into the tax legislation.

It follows that individuals will no longer be obliged, as of the 2003 taxation year, to reduce the non-refundable tax credit for medical expenses otherwise determined in order to take into account the portion of the income of dependants for whom medical expenses were paid that exceeds the amount for recognized essential needs.

3.1.7 Recognition of public lending rights for the application of the copyright deduction (measure 1.7)

The measure recognizing that, for the purpose of the application of the copyright deduction, public lending rights received under a federal program administered by the Public Lending Right Commission are closely related to copyrights, will be incorporated into the tax legislation.

Thus, for the purpose of the application of the copyright deduction, public lending rights received by a professional artist must be included, as of the 2003 taxation year, in the calculation of the artist's income from copyrights of which he or she is the first owner.

3.1.8 Simplification of the tax treatment of donations made by members of a religious order (measure 1.8)

The measures simplifying, as of the 2003 taxation year, the tax treatment applicable to members of religious orders having taken a vow of perpetual poverty, will be incorporated into the tax legislation.

As a result of these measures, the income-related limit for the purpose of calculating the tax credit for donations will be raised from 75% to 100% of the donor's net income with regard to donations made by a member of a religious order having taken a vow of perpetual poverty to a religious order qualifying as a registered charity; moreover, the tax credit for members of a religious order will be eliminated.

3.1.9 More eligible adoption expenses for individuals residing in outlying regions (measure 1.9)

The measure broadening eligible expenses to include, for the purpose of the application of the refundable tax credit for adoption expenses, travel and accommodation expenses paid by parents to pick up an adopted child escorted only as far as a major urban centre in Québec, will be incorporated into the tax legislation.

As announced, this measure will apply to final adoption judgments rendered after December 31, 2000 or, where applicable, to certificates of registration of an adoption issued by the clerk of the Court of Québec after that date.

3.2 Measures concerning businesses

3.2.1 Measures to encourage hiring in remote resource regions

❑ Introduction of a refundable tax credit for hiring new graduates (measure 2.1.1)

Briefly, a refundable tax credit of 20% for hiring new graduates was introduced. An eligible employer who carries on a business in a remote resource region of Québec may claim this refundable tax credit regarding the eligible salary incurred regarding each of his eligible employees.

The eligible salary must be attributable to the eligible period of an employee, i.e. a period of no more than 52 weeks during which the employee qualifies as an eligible employee. Lastly, the tax credit may not exceed $8 000 for that period.

This fiscal measure will not be retained for the future. However, it will apply regarding eligible salaries incurred after March 11, 2003, for an eligible employee hired after March 11, 2003 but no later than the day of this Budget Speech.

Moreover, since there is continuity of the employer-employee contractual relationship in certain corporate reorganizations, no specific exception is required in this regard in the tax legislation.

Accordingly, when, at a given time after the day of this Budget Speech, an employer continues to carry on a business following a corporate reorganization, in the case of a merger or the winding-up of a corporation wholly owned by another corporation for instance, this employer may continue to benefit from a tax credit from which he benefited at such time, for the remainder of the eligible period of an eligible employee, provided such employer qualifies as an eligible employer for the purposes of such tax credit.

For greater clarity, all the other application details of the tax credit will apply in relation to this new eligibility period.

❑ Improvement to the tax credit for on-the-job training periods (measure 2.1.2)

Briefly, the refundable tax credit for on-the-job training periods was improved in two ways for students who complete an eligible training course in a business in a remote resource region.

First, the weekly ceiling on the eligible expenditure according to which the tax credit is calculated was doubled from $500 or $625, depending on the eligible intern concerned, to $1 000 or $1 250 respectively.

In addition, the maximum hourly rate of salary paid to an eligible intern that can be considered for the purposes of the calculation of this expenditure was raised from $15 to $25.

This fiscal measure will not be retained for the future. However, it will apply regarding an eligible expenditure incurred after March 11, 2003, regarding an eligible training period beginning after March 11, 2003 but no later than the day of this Budget Speech.

For greater clarity, all the other application details of this improvement will apply in relation to this new eligibility period.

3.2.2 Introduction of a temporary refundable tax credit for the construction of public access roads and bridges in forest areas (measure 2.2)

On March 11, 2003, a temporary refundable tax credit for the construction of public access roads and bridges in forest areas was announced. This tax credit enables an eligible corporation that incurs eligible expenses regarding the construction of eligible access roads or bridges, during a taxation year, to receive tax assistance, for such year, corresponding to 40% of the amount of such eligible expenses. The temporary nature of this tax credit means that the eligible expenses must generally be incurred before January 1, 2006.

This fiscal measure will be eliminated for the future. However, it will apply for a short period, namely the new eligibility period for expenses as described below.

More specifically, expenses relating to the construction of eligible access roads and bridges must be incurred by a corporation or by a partnership, as the case may be:

— after March 11, 2003 and before the day of this Budget Speech;

— as of the day of this Budget Speech and before January 1, 2004 if:

  - they are incurred in accordance with what appears in an annual forest operation plan submitted to the ministère des Ressources naturelles, de la Faune et des Parcs before the day of this Budget Speech; and

  - construction of the eligible access road or bridge by the corporation or partnership, as the case may be, or on behalf of either of them, started before the day of this Budget Speech.

For greater clarity, all the other application details of the tax credit will apply in relation to this new eligibility period for expenses.

3.2.3 Partial withdrawal of the limit on the deductibility of rebates paid by a cooperative (measure 2.3)

Currently, the tax legislation stipulates that the amount of the allowable deduction for a rebate, in calculating the income of a cooperative for a taxation year, is limited depending on the sales it achieved with its members.

A change was announced to allow, in the calculation of a cooperative's income, the deduction of the amount of residual surplus it attributes as rebates.

This fiscal measure will be eliminated.

3.2.4 One-year extension of tax benefits relating to flow-through shares (measure 2.4)

Briefly, the flow-through share system was to have expired at the end of 2003. On March 11, 2003, it was announced that the system would be continued for another year, i.e. until the end of 2004.

The changes announced in regard to this one-year extension of the flow-through share system will be introduced, but will be adapted to reflect the changes announced as part of this Budget Speech.[71]

3.2.5 Streamlining relating to an innovative project carried out in a designated site (measure 2.5)

Streamlining measures were announced both for current rules and for transition rules applicable to the carrying out of an innovative project in a designated site.

Briefly, these measures were designed to better respond to the concerns of corporations seeking to benefit from the tax measures regarding the carrying out of an innovative project in a designated site, when they have earned investment income before a certification application is submitted to Investissement Québec concerning their innovative project.

These measures streamlining existing rules will be introduced as announced, and those regarding transition rules will be applied by Investissement Québec as announced.

3.2.6 Consolidation of certain responsibilities with Investissement Québec (measure 2.6)

Briefly, responsibilities assumed by the Bureau du commerce électronique were transferred to Investissement Québec. These responsibilities concerned two types of fiscal measures, namely those relating to carrying out eligible activities in E-Commerce Place and those relating to e-business activities carried out in certain designated sites.

These responsibilities will be transferred to Investissement Québec as announced.

71 See subsections 1.3.16 and 1.5.5.

3.2.7 Simplification of the refundable tax credit for corporations specializing in the production of multimedia titles (measure 2.7)

Two changes were announced concerning this measure.

The first change concerns the definition of "eligible multimedia title" for the purposes of the tax credit for specialized corporations to include any multimedia title produced by a specialized corporation, other than a title that Investissement Québec has excluded. Accordingly, the ministère du Revenu du Québec (MRQ) will no longer have to qualify multimedia titles produced by a corporation that claims a tax credit for specialized corporations.

The second change introduces, for the purposes of the general component and the tax credit for specialized corporations, a consultation power enabling the MRQ to refer to Investissement Québec for purposes of the eligibility of production work relating to a multimedia title.

These changes will be introduced as announced.

3.2.8 Adjustments to the five-year tax holidays granted to certain foreign employees (measure 2.8)

Adjustments were made to the five-year tax holidays granted to certain foreign employees. These adjustments stipulate that the presumption that an individual is deemed to reside in Québec for an entire taxation year if, during such year, he or she stayed for one or more periods totalling 183 days or more, will not apply to these tax holidays. Second, these adjustments ensure that the respective roles of the MRQ and the sectoral organizations charged with administering certain eligibility conditions regarding these tax holidays remain complementary.

These changes will be introduced as announced.

3.2.9 Eligibility of certain corporations that do not pay tax for various tax incentives

Because of the tax benefits corporations that are tax-exempt and corporations governed by legislation constituting a labour fund (labour fund) already enjoy, some restrictions were introduced concerning, first, the eligibility of such corporations for various tax exemption or tax holiday incentives and, second, the eligibility of labour funds for various refundable tax credits stipulated by the tax legislation.

❑ Exempt corporations (measure 2.9.1)

Briefly, it was announced that a declaratory amendment would be made to the legislation to introduce a general application rule stipulating the ineligibility of an exempt corporation for any tax exemption or tax holiday incentive measure.

This amendment will be introduced as announced.

However, in spite of the preceding, the announced change will not apply to an exempt corporation regarding a tax holiday for a major investment project for which a detailed application to obtain the tax holiday was submitted to the ministère des Finances before March 11, 2003.

To that end, the ministère des Finances will consider that a detailed application to obtain the tax holiday for an investment project has been submitted to it before March 11, 2003 if such application includes all the documents necessary for the analysis of the file.

❑ Corporations governed by an act constituting a labour fund (measure 2.9.2)

• Eligibility for a tax exemption or tax holiday incentive measure

Regarding the eligibility of a labour fund for a tax exemption or tax holiday incentive measure, it was announced that the tax legislation would be amended to introduce a general application rule stipulating the ineligibility of a labour fund, regarding a taxation year of such fund beginning after March 11, 2003, for any tax exemption or tax holiday incentive measure other than such a tax exemption or tax holiday measure specifically stipulating the eligibility of a labour fund.

Because of the elimination of certain tax benefits a labour fund may currently claim,[72] the restriction announced on March 11, 2003 is no longer needed.

Consequently, this amendment will not be incorporated into the tax legislation.

• Eligibility for a refundable tax credit stipulated by the tax system

Concerning the eligibility of a labour fund for a refundable tax credit stipulated by the tax system, it was announced that the tax legislation would be amended to introduce a general application rule stipulating the ineligibility of a labour fund for any refundable tax credit stipulated by the tax system, regarding an expenditure incurred after March 11, 2003.

72 See subsection 1.8.1.

Because of the elimination of certain tax benefits a labour fund may currently claim,[73] the restriction announced on March 11, 2003 is no longer needed regarding an expenditure incurred after the day of this Budget Speech.

Consequently, expenditures incurred after the day of this Budget Speech by a labour fund in relation to a refundable tax credit stipulated by the tax system will henceforth be eligible for such refundable tax credit.

However, for greater clarity, the ineligibility of expenditures incurred by a labour fund, during the period starting March 12, 2003 and ending the day of this Budget Speech inclusive, in relation to a refundable tax credit stipulated by the tax system, will be maintained.

3.2.10 Clarification concerning international financial centres (measure 2.10)

It was announced that a clarification would be made, applicable both for the past and the future, to ensure that the Minister of Revenue may not disqualify a given transaction as a qualified international financial transaction, when such given transaction is covered by a certificate issued by the Minister of Finance.

This clarification will be made as announced.

3.2.11 Tightening measures to ensure a portion of the funding of the new Québec film and audiovisual production policy

Changes to the tax credit for Québec film and television production were proposed as part of the implementation of the *Québec film and audiovisual production policy* released on March 11, 2003.

❑ Decrease in the rate of the cap based on production costs (measure 2.11.1)

The change lowering the rate of the cap on labour expenditures from 50% to 45% based on the production costs of a Québec film will not be incorporated into the legislation.

73 *Ibid.*

❑ Changes to Québec film certification criteria (measure 2.11.2)

For a production to be recognized as a Québec film for the purposes of the tax credit for Québec film and television production, the *Regulation respecting the recognition of a film as a Québec film* (Regulation) stipulates that such film must satisfy criteria concerning in particular the type of production, the persons who occupy certain specific creative positions and the percentage of the production costs incurred in Québec.

• Stricter eligibility criteria for variety shows and television magazine shows on the basis of the broadcast schedule

Briefly, variety and magazine-type television shows that satisfy the form and content criteria stipulated in the Regulation are eligible shows for the purposes of the tax credit for Québec film and television production if they are broadcast during the prescribed time periods.

The change to broadcasting times during which a variety or magazine-type television show must be broadcast in order to qualify as a Québec film will not be incorporated into the regulation.

• Introduction of a new requirement for original productions in a language other than French

Besides the Québec content standards, the Regulation stipulates that the application for recognition of a production must be accompanied by an undertaking from a broadcaster whereby the production will be distributed in Québec, or an undertaking from the holder of a distribution license whereby the production will be shown in theatres in Québec.

In this regard, a regulatory requirement was added to stipulate, when an application for an advance ruling or final certification of an original production in a language other than French is accompanied by an undertaking by a broadcaster that the production will be distributed in French in Québec, or an undertaking by the holder of a distribution license that the production will be shown in French in theatres in Québec, that the French dubbing of the production for which the application is filed must henceforth be carried out in Québec.

This change will be introduced as announced.

❑ Changes stemming from the end of the period of eligibility of private broadcasters for tax credits for film production (measure 2.11.3)

Briefly, adjustments were announced for the tax credit for Québec film and television production, the tax credit for film production services as well as the regulations regarding these tax credits, to reflect the end of the period of eligibility of private broadcasters for these tax credits. More specifically, the notions of "eligible corporation", "eligible labour expenditure" and "eligible production" were changed.

The changes to the notions of "eligible corporation" and "eligible production" will be introduced as announced.

However, the application details of the changes to the notion of "eligible labour expenditure" will be changed to protect productions that were under way at the time of the disqualification of the remuneration reasonably attributable to the employees of a broadcaster or of a corporation that is not at arm's length with a broadcaster.

Accordingly, the changes to the notion of "eligible labour expenditure" will apply in relation to a film or television production regarding which an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed with regard to such production, is filed with Société de développement des entreprises culturelles (SODEC) after August 31, 2003.

They will also apply regarding a film or television production, even if an application for an advance ruling is filed with SODEC before September 1, 2003, if SODEC considers that the work on such production was not sufficiently advanced on March 11, 2003.

However, in the specific case of a series, these changes will not apply regarding an episode or a show that is part of a series, if an application for an advance ruling, or a final certification application if no application for an advance ruling was previously filed, is filed with SODEC before September 1, 2003, regarding an episode or a show that is part of such series, and if SODEC considers that the work on the production of an episode or a show of such series was sufficiently advanced on March 11, 2003.

3.2.12 New component added to the regional increase for a Québec film or television production (measure 2.12)

Briefly, a second component was added to the regional improvement for the purposes of the tax credit for Québec film and television production, resulting in a 3% increase in the basic rates regarding labour expenditures incurred for services provided in the regions, in the course of shooting scenes away from the studio in relation to a Québec film.

This fiscal measure will not be retained.

3.2.13 Other measures regarding culture

Changes were announced for the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for shows, the tax credit for the production of sound recordings and the tax credit for book publishing, to ensure that the objectives of these tax credits are achieved and to better target the corporations regarding which tax assistance is granted.

❑ Refundable tax credit for Québec film and television production (measure 2.13.1)

Technical changes were announced for the refundable tax credit for Québec film or television production concerning the notions of "eligible corporation", "government and non-government assistance", "production costs" and regarding the period, beyond postproduction, during which costs may be incurred for the production of a film.

- **Change to the notion of eligible corporation**

In general, an eligible corporation, for the purposes of the tax credit for Québec film and television production, must in particular be a Québec-controlled corporation.

A change was announced to allow the use of a more objective test to determine the control of a corporation for the purposes of this tax credit. More specifically, to determine the control of a corporation for the purposes of the tax credit for Québec film and television production, the shares held by persons not residing in Québec will be hypothetically attributed to a hypothetical person. If such attribution gives control of the corporation to such hypothetical person, the corporation shall be a corporation controlled by persons not residing in Québec for the purposes of the tax credit for Québec film and television production.

This change will be introduced as announced.

- **Government and non-government assistance**

In general, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce the amount of labour expenditures or production costs, as the case may be, for the calculation of the tax credit for Québec film and television production.

- **Financial contribution**

A change was announced that stipulates that the amount of any financial contribution attributable to a film or television production, regardless of its form, provided, directly or indirectly, by a government, a municipality or other administration, other than an amount from a public organization in the cultural field, would be considered a reducing amount of assistance for the purposes of the tax credit for Québec film and television production.

This change will be incorporated into the tax legislation as announced. In addition, a clarification will be made to the notion of financial contribution from a government, a municipality or other administration, to better define the application of the notion of amount of assistance.

More specifically, it is appropriate to specify that income from the exploitation of a property is not a financial contribution attributable to a property for the purposes of the notion of amount of assistance.

For example, the fees paid by a public broadcaster to present a film or television production are income from the exploitation of a property, as opposed to financial support attributable to the production of a property, and do not constitute contributions covered by the notion of amount of assistance.

This clarification will apply regarding the notion of amount of assistance on the same application dates as announced on March 11, 2003.

- **New excluded amount of assistance**

A change was announced that stipulates that an amount of assistance paid by the Conseil des arts et des lettres du Québec (CALQ) is an excluded amount of assistance for the purposes of the tax credit for Québec film and television production.

This change will be introduced as announced.

- **Interaction with federal tax credits**

In addition, the amendment stipulating that the federal tax credit for film or video production services will not be considered an amount of government assistance for the purposes of the tax credit for Québec film and television production will be incorporated into Québec's tax legislation as announced.

- **Clarification of the notion of production costs of a film**

The clarification according to which costs will not be recognized in the calculation of production costs of a film if they are not directly attributable to the production of such film, even if such costs would not have been incurred had a film not been produced, will also be incorporated into the tax legislation as announced.

- **Limit to the period, beyond postproduction, during which costs may be incurred for the production of a film**

A change was announced limiting to 18 months from the end of the fiscal year that includes the date of recording of the first trial composite of a film, the time, following postproduction of a film, within which the MRQ may allow certain expenditures as production costs or labour expenditures.

This change will be introduced as announced.

❑ New exclusion for the application of the tax credit for the production of sound recordings (measure 2.13.2)

The tax credit for the production of sound recordings enables an eligible corporation to receive a refundable tax credit regarding the eligible labour expenditures it incurs to produce an eligible sound recording.

As announced, the regulation will be changed to stipulate that a sound recording that is a component of a game is not an eligible sound recording for the purposes of the tax credit for the production of sound recordings.

❑ Concordance changes regarding certain refundable tax credits relating to the cultural field (measure 2.13.3)

- **Notion of eligible corporation**

A change to the notion of eligible corporation was announced for the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing with the same effect as the one introduced for the purposes of the tax credit for Québec film and television production.

More specifically, in the course of the determination of the control of a corporation for the purposes of these tax credit, the shares held by persons not residing in Québec must be hypothetically attributed to a hypothetical person. If such attribution gives control of the corporation to such hypothetical person, the corporation shall not be an eligible corporation for the purposes of the tax credit for the production of shows, the tax credit for the production of sound recordings or the tax credit for book publishing.

This change will be introduced as announced.

- **Notion of amount of government and non-government assistance**

Like the change described above concerning tax credit for Québec film and television production, a change was announced to stipulate that the amount of any financial contribution attributable to a production, a dubbed version of a production, a show, a sound recording or a work, as the case may be, regardless of its form, provided, directly or indirectly, by a government, a municipality or other administration, other than an excluded amount, will be considered a reducing amount of assistance for the purposes of the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing.

These changes will be incorporated into the tax legislation as announced. In addition, a clarification will be made to the notion of financial contribution from a government, a municipality or another administration, to better define the application of the notion of amount of assistance.

More specifically, it is appropriate to specify that income from the exploitation of a property is not a financial contribution attributable to a property for the purposes of the notion of amount of assistance.

For example, the fees paid by a public broadcaster to acquire performances of a show are income from the exploitation of such a property, as opposed to financial support attributable to the production of the property, and do not constitute contributions covered by the notion of amount of assistance.

This clarification will apply regarding the notion of amount of assistance on the same application dates as announced on March 11, 2003.

❑ Standardization of rules for the purposes of tax credits in the cultural field (measure 2.13.4)

To standardize the structure and the rules for all the tax credits targeting the cultural industries with those of the tax credit for Québec film and television production, changes were announced for the tax credit for film production services, the tax credit for film dubbing, the tax credit for the production of shows, the tax credit for the production of sound recordings and the tax credit for book publishing.

Briefly, changes designed to simplify the calculation of production costs, printing costs and preparation costs were first announced. Next, the notion of eligible labour expenditure was also changed for the purposes of each tax credit in the cultural field. Lastly, changes were introduced to simplify the administration of these tax credits by the MRQ.

These changes will be introduced as announced.

3.3 Measures concerning consumption taxes

3.3.1 Voluntary registration of Canadian freight carriers not resident in Québec (measure 3.1)

The changes announced to the Québec sales tax system to allow Canadian freight carriers not resident in Québec to register voluntarily starting March 12, 2003, will be incorporated into the tax legislation.

3.3.2 Fuel tax refund in respect of biodiesel fuel (measure 3.2)

The measure allowing a fuel tax refund in respect of biodiesel fuel starting March 12, 2003 will not be incorporated into the fuel tax system.

Accordingly, no refund of this tax will be allowed regarding biodiesel fuel acquired since that date.

3.4 Other fiscal measures

3.4.1 Relaxation of the investment requirements imposed on certain mutual fund corporations (measure 4.1)

It was announced that a variety of amendments would be made to the *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)*, the *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* and the *Act constituting Capital régional et coopératif Desjardins*, to streamline the investment requirements of corporations constituted under these laws.

The announced changes will be retained to better adapt the investment requirements imposed on these corporations to the capital needs of Québec businesses and to avoid limiting their participation in developmental projects for Québec's economy.

3.4.2 Abolition of the transfer pricing penalty (measure 4.2)

As announced, the tax legislation will be amended to abolish the transfer pricing penalty retroactive to its effective date.

3.4.3 Clarifications concerning transfers from a Farm Income Stabilization Account (measure 4.3)

The tax consequences of agricultural enterprises participating in a Québec farm income security program called the Farm Income Stabilization Account (FISA) were announced in the November 1, 2001 Budget Speech.

However, since the rules applicable to transfers provided for under the FISA program were not specified when the introduction of the program was announced, changes were announced to stipulate special application details concerning authorized transfers from a FISA.

These changes will be introduced as announced.

3.5 Federal legislation and regulations

All the announcements relating to federal legislation and regulations, made in subsection 5 of section 1 of the *Additional Information on the Budgetary Measures* of March 11, 2003 are maintained.

In particular, these announcements concerned the Federal Budget Speech of February 18, 2003 as well as news releases 2002-107 and 2002-108 released by the Department of Finance Canada on December 20, 2002.

3.6 Abolition of the registration duties for electric road vehicles (measure 6)

The measure stipulating the abolition of registration duties for electric road vehicles will not be retained. Accordingly, registration duties will remain applicable for such vehicles.

4. FINANCIAL IMPACT OF FISCAL MEASURES

FINANCIAL IMPACT OF FISCAL MEASURES
(in millions of dollars)

	Financial impact for the government	
	2003-2004	Full-year
ELIMINATION OF CERTAIN FISCAL MEASURES		
1. Termination of designated sites: cessation of new certificates		
Cité du multimédia	6	18
New economy centres	8	30
E-Commerce Place	3	11
Information technology development centres	4	9
Centre national des nouvelles technologies de Québec	–	3
Cité de l'optique	–	2
Technopôle Angus	–	1
E-Commerce Zone	6	21
Biotechnology development zones	–	1
Nutraceuticals and functional foods	–	1
Innovation centres	–	1
Montréal Foreign Trade Zone at Mirabel	–	16
Sub-total	**27**	**114**
2. Elimination of certain fiscal measures regarding investment		
Elimination of the accelerated depreciation deduction for certain assets	12	76
Elimination of the two-year tax holiday from tax on capital	2	10
Elimination of the tax credit based on the increase in R&D expenditures	4	22
Sub-total	**18**	**108**
3. Elimination of certain exemptions granted to financial institutions and investment funds		
Elimination of the deduction of the paid-up capital of certain financial institutions	3	8
Savings and credit unions:		
- Elimination of the reduced income tax rate	2	6
- Elimination of the basic paid-up capital deduction	1	2
Elimination of the income tax exemption for labour-sponsored funds and Capital régional et coopératif Desjardins	–	10
Sub-total	**6**	**26**
Sub-total - elimination of certain fiscal measures	**51**	**248**

FINANCIAL IMPACT OF TAX EXPENDITURES (CONT'D)
(in millions of dollars)

	Financial impact for the government	
	2003-2004	Full-year
LIMITS APPLIED TO CERTAIN FISCAL MEASURES		
4. Reduction in tax credits, deductions and tax holidays		
4.1 25% reduction in tax assistance		
Tax credits and deductions		
Technology adaptation services	–	1
Design	–	2
On-the-job training	1	4
Production of multimedia titles	2	6
Railway companies	1	4
Shipbuilding or conversion of vessels	1	3
Resource tax credit (mining exploration)	3	11
Vallée de l'aluminium[1]	–	3
Gaspésie and certain maritime regions of Québec[1]	–	1
Processing activities in resource regions[1]	2	19
Declaration of tips	2	9
Measures concerning the financial sector	–	1
Biotechnology development centres	–	3
Cooperative Investment Plan for work cooperatives	–	1
Flow-through shares	–	2
Tax holidays		
New corporations	5	16
Manufacturing SMEs in remote resource regions	2	13
International financial centres (IFC)	1	7
Stock exchange or securities clearing-house corporation	–	1
Tax holidays for certain foreign employees	–	3
Tax holiday for seamen engaged in the international transportation of goods	–	1
Partial tax holiday for IFC employees	1	3
4.2 12.5% reduction in tax credit rates		
Scientific research and experimental development	14	63
Culture		
Québec film and television production[2]	3	21
Film dubbing	–	1
Production of sound recordings	–	1
Production of shows	–	1
Book publishing	–	1
Sub-total	**38**	**202**

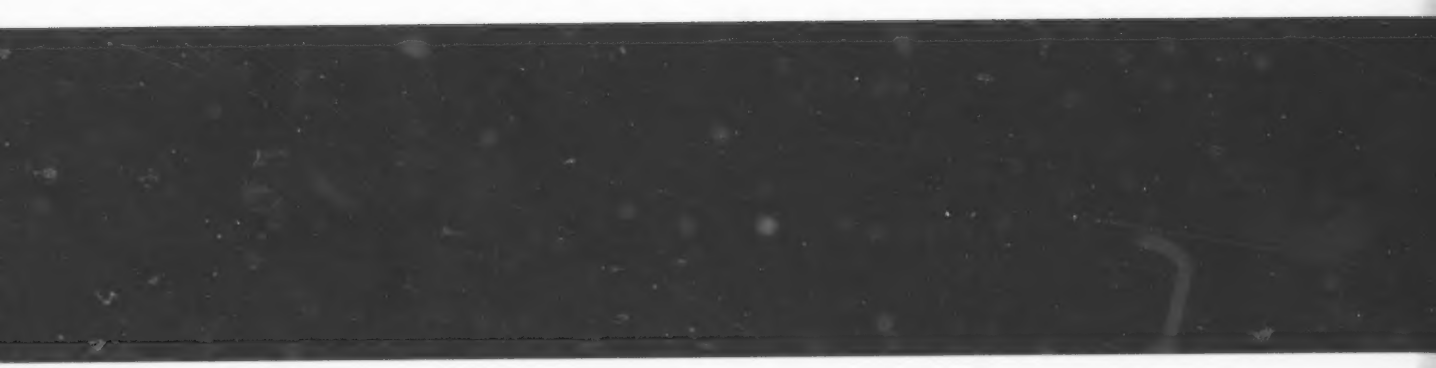
FINANCIAL IMPACT OF TAX EXPENDITURES (CONT'D)

(in millions of dollars)

	Financial impact for the government	
	2003-2004	Full-year
5. Limits on tax measures for business capitalization and major investment projects		
Labour-sponsored funds: temporary limit on assistance	11	41
Capital régional et coopératif Desjardins: temporary limit on assistance	3	37
Québec Stock Savings Plan: moratorium	2	20
Québec Business Investment Companies: moratorium	1	8
Cooperative Investment Plan: moratorium, except for work cooperatives	1	7
Major investment projects – moratorium on new projects	–	40
Sub-total	**18**	**153**
6. Reduction in other tax benefits, particularly those regarding high-income earners		
Deduction for securities options	–	13
Entertainment expenses: cap of 1% of annual sales	–	10
Sub-total	**–**	**23**
Sub-total - limits applied to certain fiscal measures	**56**	**378**
Total - tightening measures	**107**	**626**
TAX ON CAPITAL		
Deferral of tax reduction	47	198
Increase in exemption from $250 000 to $600 000	-15	-65
Sub-total - tax on capital	**32**	**133**
TOTAL IMPACT OF FISCAL MEASURES	**139**	**759**

(1) Including the tightening measure relating to the "manufacturing of specialized equipment" component of the tax credit.

(2) Including the tightening measures relating to the tax credit for Québec film and television production.



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